

## ALPHABETIZED BIBLIOGRAPHY ENTRIES

"A Green Light for U.S. ADR" Alternatives to the High Cost of Litigation January, 1991 V.9 N.1 p. 1 This article analyzes the Administrative Dispute Resolution Act of 1990 (P.L. 101-552) (ADR Act) which was signed into law on November 15, 1991, along with two other pieces of ADR legislation. The ADR Act established a government-wide emphasis on the use of nearly all ADR techniques, however, all processes must be voluntary. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ REQUIREMENTS: STATUTORY OR RULES

"A Malpractice Prescription" National Journal January 19, 1991 V.23 N.3 p. 117 This article discusses the possible ramifications of a pending initiative by the Bush administration which would affect medical malpractice in terms of reducing litigation and increasing binding arbitration. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: MEDICAL MALPRACTICE/ ECONOMIC ADVANTAGES OF ADR

"A New U.S. Law Boosts Neg-Reg" Alternatives to the High Cost of Litigation February, 1991 V.9 N.2 p. 17 This article explains the scope of the Negotiated Rulemaking Act of 1990, and its potential role in assisting the ADR process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

"A Taxonomy of Judicial ADR" Alternatives to the High Cost of Litigation July, 1991 V.9 N.7 p. 97 This taxonomy describes the major judicial approaches to settlement and ADR. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PRIVATE JUDGING

"ABA Commission Endorses Arbitration, Mediation for Lawyer-Client Disputes" World Arbitration & Mediation Report June, 1991 V.2 N.6 p. 150 ADR techniques should be used to resolve disputes between clients and lawyers. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL

"Academy of Matrimonial Lawyers' New Code of Conduct Promotes ADR" World Arbitration & Mediation Report October, 1991 V.2 N.10 p. 259 The article provides a brief discussion of the American Academy of Matrimonial Lawyers' new set of recommended standards of conduct for family practitioners called "Boards of Advocacy." MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ETHICS: GENERAL

"ADEA Cases are Arbitrable, Says Supreme Court" Alternatives to the High Cost of Litigation June, 1991 V.9 N.6 p. 77 This article discusses the decision in Gilmer v. Interstate/Johnson Lane Corp. and its effect on the arbitrability of statutory claims under a collective bargaining agreement. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ RELATION TO ONGOING LITIGATION

"ADR: A Subject at ABA Meeting" Alternatives to the High Cost of Litigation June, 1991 V.9 N.6 p. 78 This article describes three ADR sessions at upcoming ABA meeting. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ CONFERENCE PROCEEDINGS/ ROLE OF LAWYERS

"ADR in Australia" Publication Date: February 1991 Australian Dispute Resolution Journal July 3, 1992 This editorial discusses the focus of the edition on divergent issues in dispute resolution and points out some of the common concerns and diverging points of view of the contributing authors. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ 3RD PARTY: TRAINING/ ROLE OF LAWYERS

"'ADR Register' Created in the U.K.: IDR Europe Opens Office in Dublin" World Arbitration & Mediation Report August, 1991 V.2 N.8 p. 203 This Note announces the establishment of a new network, called 'ADR Register' to increase the involvement of lawyers in ADR, and is especially aimed at smaller firms in Europe. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ ROLE OF LAWYERS

## 1991 BIBLIOGRAPHY

"Age Discrimination Claimant Needn't Arbitrate, Federal Court Rules" World Arbitration and Mediation Report January, 1991 V.2 N.1 p. 11 This article summarizes a federal district court case in New York which held that employees may file suit under the ADEA, after having filed a complaint with the EEOC, without being compelled to arbitrate. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE/ JUDICIAL PARTICIPATION

"Aided by a Private ADR Provider, Deere & Co. Mediates PL Cases - And Resolves Nearly 75%" Alternatives to the High Cost of Litigation March, 1991 V.9 N.3 p. 35 Deere & Co. uses mediation early in the dispute to lower the high cost of litigation. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ ECONOMIC ADVANTAGES OF ADR

"Alternative Dispute Resolution" Journal of the Law Society of Scotland September 22, 1991 V.37 N.2 pp. 43(1) Frustration with the legal system is fueling a drive toward ADR in Scotland, but the government is not supporting it. Among the private mediation services are the Bet Din run by the Chief Rabbi and Mediation, UK, which handles neighbor disputes. SUBJ MATTER: GENERAL

"Alternative Methods of Resolving Environmental Disputes" Villanova Environmental Law Journal November 2, 1991 N.1 pp. 11-55 The inaugural symposium for this Journal involves the discussion of the way Alternative Dispute Resolution can be used in connection with site specific environmental disputes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: ENVIRONMENT/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION

"Amended Claims in Maritime Case Fell Outside Arbitrator's Jurisdiction" World Arbitration & Mediation Report June, 1991 V.2 N.6 p. 158 A Queen's Bench court held arbitrators do not have jurisdiction to hear amended claims where charterers alleged they were agents for undisclosed principals and sought to recover damages on behalf of the principals and

not just in their own right. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME

"Arbitration Award, Punitive Damages Upheld by Ninth Circuit" Tax Management Financial Planning Journal March 19, 1991 V.7 N.3 pp. 121(2) In Rostad & Rostad Corp. v. Investment Management & Research, Inc., an investment firm appealed an arbitrator's award that included nearly \$205,000 in punitive damages, alleging partiality and manifest disregard of the law. The Ninth Circuit found the appeal frivolous and awarded the plaintiff attorney fees in both district and appellate courts, and double court costs in both courts. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: SECURITIES

"Arbitration Falls Completely Outside Scope of 1968 Brussels Convention" World Arbitration and Mediation Report August, 1991 V.2 N.8 p. 213 This article describes the case of Marc Rich v. Societa Italiana Impianti, C-190/89, July 25, 1991, where the Court of Justice held that the Brussels Convention excludes all disputes involving arbitration from its scope. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES

"ARCO, Alaska: Oil-Lease ADR" Alternatives to the High Cost of Litigation April, 1991 V.4 N.4 p. 49 ARCO and Alaska reach agreement on ADR procedure for the resolution of future royalty disputes. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: ENVIRONMENT/ 3RD PARTY: NEUTRALITY

"Baffled by ERISA? Pension Group Offers Plan For Experts' Evaluation of Retiree Disputes" Alternatives to the High Cost of Litigation June, 1991 V.6 N.9 p. 82 This article examines a recent proposal by the Pension Rights Center to help employers settle benefits disputes through ADR. NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ 3RD PARTY: TRAINING/ ECONOMIC ADVANTAGES OF ADR



## 1991 BIBLIOGRAPHY

"'Baseball' ADR in Cleanup Case" Alternatives to the High Cost of Litigation September, 1991 V.9 N.9 p. 141 Baseball arbitration, which allows the arbitrator to choose one of the two settlement offers, successfully concluded a dispute over the liability for the cleanup of a toxic waste site. ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ ARB: PRIVATE JUDGING/ SUBJ MATTER: ENVIRONMENT/ ECONOMIC ADVANTAGES OF ADR

"Binational Dispute Resolution Procedures Under the Canada-United States Free Trade Agreement - Experiences to Date and Portents for the Future" New York University Journal of International Law and Politics September 22, 1991 - Fall V.24 N.1 pp. 341-437 The Canada-United States Free Trade Agreement details are successfully resolved through the use of a dispute resolution forum. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

"California Courts to Revise Private-Judge Rules" Alternatives to the High Cost of Litigation February, 1991 V.9 N.2 p. 19 While aware of its potential benefits, California's Judicial Council proposed revisions of the Private-Judge Rules in order to make this system more accessible and fair while improving the public court system as well. ARB: PRIVATE JUDGING/ COURT REFORM/ JUDICIAL PARTICIPATION/ ORGANIZATION POLICIES AND RULES

"Class Arbitration would be Barred by Securities Industry Draft Proposal" Tax Management Financial Planning Journal August 20, 1991 V.7 N.8 pp. 315(2) The securities industry opposes arbitration of class actions because arbitration forums are not equipped to handle issues such as class certification, and because class actions "are creatures of the courts, . . . they have crafted them; and the courts have the experience to handle them." The industry proposed draft rule changes although they have been criticized by attorneys and others. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"Class Arbitration Would be Barred Under Securities Industry Proposal" World Arbitration & Mediation Report August, 1991 V.2 N.8 p. 208 At a meeting of the Securities Industry Conference on Arbitration, the securities industry proposed a bar against investors using arbitration to resolve class actions against securities firms. This Note briefly explores the arguments for and against the proposal. ARB: MANDATORY,

COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE,  
PROFIT-MAKING/ SUBJ MATTER: SECURITIES

"Colorado Bar Approves Ethics Rule Calling For ADR Advice to Clients" World Arbitration & Mediation Report August, 1991 V.2 N.8 p. 207  
This is a discussion about a state rule imposing an ethical obligation on attorneys to inform clients about ADR alternatives to litigation. SUBJ MATTER: GENERAL/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ ROLE OF LAWYERS

"Colorado Bar Board Approves ADR Rule" Bar Leader May, 1991 V.16 N.2 pp. 26(1) This article discusses the passage of a Colorado Rule that calls for lawyers to advise their clients of alternative dispute resolution options before they consider litigation. NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ LEGISLATION/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

"Commercial Alternative Dispute Resolution" Commonwealth Law Bulletin January, 1991 V.17 N.1 pp. 397-398 The Kuwait Crisis: Basic Documents covers the Iraqi invasion of Kuwait in August 1990, emphasizing the role of the United Nations and the reaction of the international community. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

"Conflict-of-Interest Problems Hurt FTA Dispute Settlement" World Arbitration & Mediation Report June, 1991 V.2 N.6 pp. 147-148 This article argues that the United States and Canada should appoint permanent appointees, supplemented by ad hoc appointees, to deal with issues in the free trade agreement. ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: SELECTION/ COMPARISONS: CROSS-CULTURAL

## 1991 BIBLIOGRAPHY

"Consideration of Extrinsic Evidence Allowed When Contract is Incomplete" World Arbitration & Mediation Report October, 1991 V.2 N.10 p. 262 This article discusses a Ninth Circuit Court of Appeals decision holding that an arbitration panel was within its authority to consider evidence outside a contract where the contract had a broadly worded arbitration clause. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: CONSTRUCTION

"Dalkon Shield Trust Selects an Arbitrator" The National Law Journal May 6, 1991 V.13 N.35 p. 6 This article reports on the Dalkon Shield Claimant's Trust selection of the Private Adjudication Center, Inc. to coordinate the arbitration of claims of those women who reject settlement offers from the trust. ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: OTHER TORTS/ 3RD PARTY: SELECTION

"Dispute Resolution as it Relates to the Courts: Mandated Participation and Settlement Coercion" Arbitration Journal March, 1991 V.46 N.1 pp. 38-47 This article examines a report by the Law and Public Policy Committees of the Society of Professionals in Dispute Resolution, which was the result of 19 months of study and debate of the issues raised by the use of mandatory dispute resolution. SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES

"Dispute Resolution Proposal Seen as Valuable Enforcement Tool" World Arbitration and Mediation Report October, 1991 V.2 N.10 p. 259 The article provides a review of the pension rights center's plan, the "ERISA Early Expert Evaluation Program," which is designed to resolve disputes over private pension benefit claims. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"Divided Second Circuit Holds ERISA Claims Against Broker Arbitrable" Tax Management Financial Planning Journal March 19, 1991 V.7 N.3 pp. 121(1) The article discusses the history of Bird v. Shearson

Lehman-American Express, Inc. and the policies underlying its holding that ERISA claims may be the subject of compulsory arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES

"Faced With a Fearsome Bank Crisis, the FDIC Trains 100 ADR Specialists - and Saves \$3M." Alternatives to the High Cost of Litigation April, 1991 V.9 N.4 p. 57 This article reports on the Federal Deposit Insurance Company's fledgling ADR program in consolidation with a related entity, the Resolution Trust Corporation (RTC). The two organizations supervise failed S&Ls and commercial banks, and are training their members to handle the complex real estate disputes that arise in conducting the affairs of these insolvent institutions. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: CORPORATE

"Federal Securities Law Claims Not Subject to Arbitration Agreement" Tax Management Financial Planning Journal May 21, 1991 V.7 N.5 pp. 201(1) In McCausland v. A.G. Edwards & Sons, Inc., the court found express language in the customer agreement that excluded from arbitration "any controversy involving a non-spurious claim under the federal securities laws," despite the defendant's argument that the language related only to a role which was rescinded in 1987. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: MANDATE TO USE

"Got A Beef? Call in a peacemaker" Business Week September 23, 1991 p. 122 The author points out the growing use of ADR for a variety of conflicts between parties. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OBTAINING AGREEMENT TO USE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: PRIVATE JUDGING

"Home Insurance Pushes ADR Plan" Alternatives to the High Cost of Litigation March, 1991 V.9 N.3 p. 1 One insurance Co. is trying to train and motivate its lawyers to use ADR in order to lower its high litigation costs. MED: RELATED PROCESSES-GENERAL/ MED:

## 1991 BIBLIOGRAPHY

ENCOURAGING COMM AND NEG/ SUBJ MATTER: INSURANCE/  
ECONOMIC ADVANTAGES OF ADR

"Hospital Award at Least Covers the Legal Fees" Engineering News - Record May 6, 1991 V.226 N.18 p. 22 This article explains the results of an arbitration that settled a dispute over a \$40-million hospital expansion project in Los Angeles. General counsel for the AAA called this case "an aberration from the normal arbitration process." ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ SUBJ MATTER: HOSPITALS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

"ICCA Yearbook Commercial Arbitration" Arbitration Journal June, 1991 V.46 N.2 pp. 60(1) The article reviews the annual Yearbook Commercial Arbitration (1991), and lists its contents. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L

"In Malpractice Case, FDIC and Accountants Use Med. Art to Sidestep Ten Weeks of Trial" Alternatives to the High Cost of Litigation April, 1991 V.9 N.4 p. 60 This is a case study of how effective ADR can be in avoiding more costly litigation. MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: TIMING/ ARB: FINAL OFFER ARB/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

"In Partnering, a Creative New ADR Concept, Talk and Team Spirit Are the Fundamentals" Alternatives to the High Cost of Litigation March, 1991 V.9 N.3 p. 38 The author encourages a neutral-site retreat program for parties to a construction project before construction begins. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ SUBJ MATTER: CONSTRUCTION/ DISPUTE PREVENTION

"In the Shadow of Valdez, Exxon and Five Gov'ts Mediate a \$10M Settlement to N.Y.-N.J. Oil Spill" Alternative to the High Cost of Litigation April, 1991 V.9 N.4 p. 51 This article centers around the actions of mediator Eric R. Max in mediating a 1990 rupture of an Exxon underwater oil pipeline that gushed 567,000 gallons of heating oil into the Arthur Kill, a body of water near New York City. NEG: W/ OR W/O

ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OBTAINING AGREEMENT TO USE/ MED: TIMING/ SUBJ MATTER: ENVIRONMENT

"Insurer, Conn. Court Combine Forces in ADR" Alternatives to the High Cost of Litigation August, 1991 V.9 N.8 p. 126 This article provides a descriptive overview of a pilot, mandatory settlement procedure pioneered by ITT Hartford Insurance Group where all eligible cases are routed to one judge who presides over informal settlement negotiations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM

"International Arbitration Centre Begins Operation in Singapore" World Arbitration & Mediation Report August 1991 V.2 N.8 p. 203 This Note gives information about a new arbitration centre in Singapore which has been opened to hear shipping, trade banking and other international commercial disputes. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ ROLE OF LAWYERS

"International Arbitration" (book review) Law Office Economics and Management March 22, 1991 - Spring V.32 N.1 pp. 109(1) This is a brief summary of International Arbitration by Thomas Oehmke. Oehmke's book examines the role and powers of arbitration under international law, including chapters on sovereignty and jurisdiction, awards and subpoena power, and international arbitration forms. SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

"International Trade Disputes - Non-Judicial Remedies or Judicial Review: What Do You Get? What Do You Give Up?" West's Federal Rules Decisions October, 1991 V.137 N.3 pp. 613-630 This panel discussion looked at the resolution of international trade disputes, and at the different organizations used to settle trade disputes. In particular the panel discussed the FTA-Canada Binational Panels. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY,

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COURT-ANNEXED- TRIAL DE NOVO/ ARB: PRIVATE JUDGING/  
SUBJ MATTER: GENERAL

"Investor Must Arbitrate Securities Fraud Claims" Tax Management Financial Planning Journal October 15, 1991 V.7 N.10 pp. 387-388 In Clark v. Merrill Lynch, Pierce, Fenner & Smith Inc., the Fourth Circuit reversed a \$1,683,170 jury award to an investor, ruling that the language of the relevant arbitration award did not create a substantive right to litigate federal securities law claims. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

"Judge Frank G. Evans Helps Launch Judicial Arbitration & Mediation Services in Texas" Texas Bar Journal May, 1991 V.54 N.5 pp. 411(1) Judicial Arbitration & Mediation Services, the California based private-judge company, has opened a Texas chapter and recruited Judge Evans to lead its judicial panel. MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: PRIVATE JUDGING/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL

"Labor Arbitration and the Law of Collective Bargaining Agreements" The Labor Lawyer June 22, 1991 - Summer V.7 N.3 pp. 747-770 This article includes reports of the Subcommittee on the Relationship of Labor Arbitration to External Laws and the Sub Committee on the Impact of the Duty of Fair Representation on Labor Arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

"Lex Mercatoria and Arbitration: A Discussion of the New Law Merchant" (book review) The American Review of International Arbitration 1991 V.2 N.1 p. 123 This review of the above-titled book summarizes the efforts of editor Thomas F. Carbonneau to present varying views of Lex Mercatoria (defined as a body of rules created by commercial practices) and their application in international arbitration. The book is a collection drawn from the proceedings of two Tulane University colloquia. SUBJ MATTER: COMMERCIAL/ SUBJ

**MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/  
COMPARISONS: CROSS-CULTURAL**

**"Major Stock Firms to Offer Arbitration Forums" Tax Management Financial Planning Journal May 21, 1991 V.7 N.5 pp. 199(3) Five major brokerage firms will participate in a pilot program that will allow investors to bring arbitration claims to non-industry forums such as the American Arbitration Association, even though those customer agreements may only provide for industry forums. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: SECURITIES/ FAIRNESS**

**"Managing Patent Disputes Through Arbitration" Arbitration Journal November 28, 1991 N.3 pp. 5-12 This brief article looks at the advantages of using arbitration in resolving disputes arising from patent issues. The author points out the savings in time and money, along with the advantages of getting a decision from an industry expert. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ ECONOMIC ADVANTAGES OF ADR**

**"Many U.S. Courts Have Adopted ADR Rules, CPR Survey Finds; SJT's Mediation Addressed" Alternatives to the High Cost of Litigation January, 1991 V.9 N.1 p. 6 The article reports the results of a CPR survey of U.S. federal courts, finding that 36 of 93 federal district courts, and six of thirteen circuits have adopted at least one local ADR rule. Settlement conferences were the most common subject of ADR rules, occurring in 23 of 36 districts. INST NATURE: JUSTICE SYSTEM-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM**

**"Mediate, Don't Litigate: How to Resolve Disputes Quickly, Privately, and Inexpensively Without Going to Court" (book review) Ohio State Journal on Dispute Resolution March 22, 1991 - Spring V.6 N.2 pp. 347-351 This review of a Peter Lovenheim book on mediation praises the book for its knowledgeable discussion of the benefits of mediation, but notes that it may be too complicated for the lay reader while too simplistic for the practitioner. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OPENING AND SETTING GUIDELINES/ TYPE OF SOURCE: BOOK REVIEW**



## 1991 BIBLIOGRAPHY

"Memorandum From the ICC Secretariat on Fast-Track Arbitration" The American Review of International Arbitration 1991 V.2 N.2 p. 162 A memorandum announcing the completion of two complex fast-track arbitrations, and a listing of its components. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: FINAL OFFER ARB/ ARB: JUDICIAL REVIEW

"Money Clip" U.S. News & World Report August 26, 1991/September 2, 1991 V.III N.9 p. 18 CIGNA companies compare trials to mediations in resolving car accident disputes. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: OTHER TORTS

"NASD Proposal Would Transfer Arbitration Cases to Other Forums" World Arbitration and Mediation Report September 1991 V.2 N.9 p. 237 The National Association of Securities Dealers has proposed that transfer of arbitration cases to the self-regulatory organization in which the transactions occurred be permitted when the claimant consents. This proposal, which must be approved by the Securities Exchange Commission, is an attempt to alleviate the current caseload imbalance between NASD and other SROs. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES

"NASD Proposes Moving Arbitration Cases to Other SRO Forums to Ease Its Caseload" Tax Management Financial Planning Journal October 15, 1991 V.7 N.10 pp. 388-389 Along with other proposed changes, the National Association of Securities Dealers proposed to transfer arbitration cases to the self-regulatory organization where the disputed transaction took place, provided the claimant consents. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ SETTLEMENT: AUTHORITY

"NASD Urges Members to Offer Customers Non-Industry Forum" World Arbitration & Mediation Report January 1991 V.2(1) N.1 p. 6 This article briefly discusses the National Association of Securities Dealers' proposal to encourage voluntary arbitration agreements providing for the choice of a non-industry arbitration forum to resolve disputes. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: CORPORATE/ REQUIREMENTS: CONTRACTUAL CLAUSES/ SELECTION OF APPROPRIATE PROCESS

"Novel Settlement Tack in Refinery Dispute: A Neutral Safety Advisor, Backed by Court" Alternatives to the High Cost of Litigation September, 1991 V.9 N.9 p. 143 Mobil Oil Corp. settles a public nuisance action brought by the city of Torrence, Ca., by agreeing to have a safety advisor monitor the refinery in question for the next seven years. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: ENVIRONMENT/ COURT REFORM/ JUDICIAL PARTICIPATION

"NYC Sets Contract-ADR Plan; Scheme is Multistep, Binding" Alternatives to the High Cost of Litigation April, 1991 V.9 N.4 p. 50 This article reports on New York City's new ADR policy which will involve mandatory ADR Procedures for many of the city's contract disputes. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: GOV'T/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM/ DISPUTE PREVENTION

"Order Compelling Arbitration May Be Appealed if it Stands Alone" World Arbitration and Mediation Report October, 1991 V.2 N.10 pp. 264-5 This article examines the U.S. Court of Appeals for the Second Circuit's opinion in Chung v. President Enterprises Corp., in which the court held that an arbitration order that is the result of an independent proceeding, and not part and parcel of pending litigation, is final for purposes of appeal. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: COMMERCIAL/ JUDICIAL PARTICIPATION

"Patent Alternative Dispute Resolution Handbook" (book review) High Technology Law Journal March 22, 1991 - Spring V.6 N.1 pp. 171(1) This is a review of Tom Arnold's book, Patent Alternative Dispute Resolution Handbook, which discusses the importance of incorporating ADR into patent law and evaluates the different options available. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: BINDING ARB- GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

"Plan May Arbitrate ERISA Claims Against Investment Advisor" Tax Management Financial Planning Journal October 15, 1991 V.7 N.10 pp. 389-390 The report discusses Fabian Financial Services v. Kurt H. Volk, Inc. Profit Sharing Plan, in which a California Federal District

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Court held that a profit sharing plan may arbitrate its Employee Retirement Income Security Act breach of fiduciary duty claim against its investment advisor. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"Power to Enforce Fair Housing Law Helps HUD Conciliate More Claims" World Arbitration and Mediation Report January, 1991 V.2 N.1 p. 7 The 1989 amendments in the Fair Housing Act have enabled HUD to increase its ability to conciliate fair housing complaints. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: GOV'T/ SUBJ MATTER: RENTAL HOUSING/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

"Put Preventive Law Courses in Curriculum, Scholar Says" Alternatives to the High Cost of Litigation February, 1991 V.9 N.2 p. 18 Edward Dauer, dean of the University of Denver College of Law, argues for the need for preventive law courses in law school curriculum. He believes that students are geared only toward advocacy. NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ DISPUTE PREVENTION/ POWER IMBALANCE/ TEACHING

"RAND Research Finds Much Good, Little Bad From High Stakes, Court-Annexed Arbitration" Alternatives to the High Cost of Litigation January, 1991 V.9 N.1 p. 3 This is a report on a four-year study of a North Carolina, Federal court-annexed, high-stakes arbitration program. The study concluded that the ADR initiative reduced private litigation costs and increased litigant satisfaction, but did not reduce case duration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"Resolving Prisoners' Grievances Out of Court: 42 U.S.C. 1997e" Harvard Law Review April, 1991 V.104 N.6 p. 1329 This Note analyzes 42 U.S.C. 1997e, which allows federal courts to require that prisoners file grievances before bringing Section 1983 civil rights suits. The author warns the reader of problems involved with relying on a potentially unfair grievance system that may deny a prisoner fair access to courts. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: PRISONS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM

**"Second Circuit Mandates Arbitration of ERISA Claim" Tax Management Compensation Planning Journal April 5, 1991 V.19 N.4 pp. 138(1)** A divided Second Circuit panel held that Congress did not intend to preclude a waiver of judicial forum for ERISA claims and that the Federal Arbitration Act requires federal costs to enforce agreements to arbitrate such claims. Bird v. Shearson Lehman/ American Express. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

**"Sex Discrimination Claims Are Subject to Compulsory Arbitration" World Arbitration & Mediation Report September 1991 V.2 N.9 p. 238** In Alford v. Dean Witter Reynolds Inc., the U.S. Court of Appeals for the Fifth Circuit held that a recent Supreme Court decision upholding compulsory arbitration of age discrimination claims in the securities industries, also applies to statutory claims of sex discrimination. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES

**"Should The Parties Pay? Trial Disincentives OK? Group Urges Rules on Mandatory Court ADR" Alternatives to the High Cost of Litigation May, 1991 V.9 N.5 p. 70** This article discusses recent proposals by the Committee on Law and Public Policy of the Society of Professionals in Dispute Resolution (SPIDR) in regard to the establishment of guidelines for involuntary, mandatory court ADR. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: OPENING AND SETTING GUIDELINES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE/ CONFERENCE PROCEEDINGS/ JUDICIAL PARTICIPATION

**"Small Pension Plan Audit Resolution Program Offers Penalty-Free Settlement" Tax Management Memorandum July 29, 1991 V.32 N.15 pp. 227(1)** The new Actuarial Resolutions Program allows sponsors of small defined benefit pension plans to settle income tax liabilities arising out of the IRS' challenge to actuarial assumptions used to compute the employer's plan contribution deduction. NEG: W/ OR W/O ASSIST

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OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX/ SETTLEMENT: AUTHORITY

"Stalemate" Aviation Week and Space Technology February 4, 1991 V.134 N.5 p. 19 Article reports on government mediation of contract negotiations between American Airlines and the Allied Pilots Association.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: PUBLIC POLICY DIALOGUE/ INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

"Success And a New U.S. Statute Spur Spread of Court DR Plan" Alternatives to the High Cost of Litigation March, 1991 V.9 N.3 p. 34 Early neutral evaluation, a program initiative in the U.S. District Court for the Northern District of California, seems to improve the chances of settlement and sharpens the issues in the case. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR

"Survey of International Arbitrations: 1794-1989" (book review) American Journal of International Law January, 1991 V.85 N.1 pp. 250-251 This review notes that the book has been referred to by Martin Domke as "an indispensable tool." NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: RENTAL HOUSING

"The Minnesota Supreme Court and Minnesota State Bar Association Task Force on Alternative Dispute Resolution Final Report, as Approved by the Minnesota Supreme Court, June 1990" Hamline Law Review September 22, 1991 - Fall V.15 N.1 pp. 69-103 This is a report of the findings from a task force that was recently established to consider the use of ADR in Minnesota. The group discusses a number of recommendations and concludes that there is much promise for the expansion of ADR in Minnesota and that state legislation should be enacted to encourage usage in conjunction with State Supreme Court rules. INST NATURE: GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/

**REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON  
PROCEDURE/ JUDICIAL PARTICIPATION/ LEGISLATION**

**"The Policy Implications of Arbitrating Age Discrimination Claims"**  
Arbitration Journal September, 1991 V.46 N.3 pp. 66-69 The article discusses the benefits of quick settlement in employment disputes involving the question of age discrimination. The author advocates the use of arbitration to reach this goal. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ SENIOR CITIZENS AS PARTIES

**"The Week in Health Care; For the Record"** Modern Health Care February 4, 1991 A brief critique of the first 13 years of Michigan's voluntary arbitration program, noting that few patients or hospitals chose arbitration, and that the state's medical liability insurance costs have not been reduced. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: HOSPITALS

**"Tough Plywood Case May Open Doors for Mediation"** Engineering News - Record July 22, 1991 V.227 N.3 p. 82 This article reports on the mediation of defective fire-resistant-treated plywood disputes, pointing out that mediation may become more popular in the construction industry. MED: RELATED PROCESSES-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

**"Tribal-State Dispute Resolution: Recent Attempts"** South Dakota Law Review June 22, 1991 - Summer V.36 N.2 pp. 277-298 The authors describe the status of tribal-state negotiations and dispute resolution by discussing a number of recent negotiations involving taxes, land claims, and the environment. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: TAX/ COMPARISONS: CROSS-CULTURAL

**"U.S. Panel Consolidates 26G Asbestos Cases Before One Judge; His Discretion Is Broad"** Alternatives to the High Cost of Litigation September, 1991 V.9 N.9 p. 145 Judge Weiner, facing 26,000 asbestos cases from different districts, encounters tough issues and limited funds;

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but is free to chose from among a variety of case management and ADR techniques. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: TOXIC TORTS/ ISSUE & CLAIM PRECLUSIVE EFFECTS/ JUDICIAL PARTICIPATION

"U.S. Tax Court Codifies Binding - ADR Option" Alternatives to the High Cost of Litigation April, 1991 V.9 N.4 p. 63 This article explains the recent adoption by the U.S. Tax Court of an interesting binding arbitration alternative used voluntarily and exclusively for expert-required fact finding. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: TAX

"When a Beam Fractured and The Tab Hit \$7M, TRW Resolved the Case in a Novel Minitrial" Alternatives to the High Cost of Litigation June, 1991 V.9 N.6 p. 79 An examination of how one dispute was resolved through a minitrial. NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CONSTRUCTION/ FISS/ ROLE OF LAWYERS

"When ADR Incentives Did Not Work, Insurer Studied Its Caseload and Trained it Adjusters" Alternatives to the High Cost of Litigation August, 1991 V.9 N.8 p. 128 This article reports on the internal changes made by the Republic Insurance Group to encourage its claim managers and attorneys to use ADR whenever possible. NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ MED: OBTAINING AGREEMENT TO USE/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS/ ECONOMIC ADVANTAGES OF ADR

"With 2 Asbestos Cases Filed for Each Ended, Federal Judges Ask Congress for a Nat'l Plan" Alternatives to the High Cost of Litigation May, 1991 V.9 N.5 p. 67 This article summarizes the critical situation of asbestos litigation and highlights the recommendations of the judicial conference which calls for congressional legislation of the issue. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TOXIC TORTS/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ SELECTION OF APPROPRIATE PROCESS

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Canadian arbitration cases brought by victims of sexual harassment and "just cause" cases brought by the alleged harasser. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ COMPARISONS: CROSS-CULTURAL/ FAIRNESS/ ORGANIZATION POLICIES AND RULES/ PROVISIONAL REMEDIES

**Aksen, Gerald** "The Current Context: Where do we Stand - Internationally and Domestically?" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 225-230 This article discusses the status of domestic and international dispute resolution against an historical backdrop. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL

**Aksen, Gerald; Dorman, Wendy S.** "Application of the New York Convention By United States Courts: A Twenty-Year Review (1970-1990)" The American Review of International Arbitration 1991 V.2 N.1 p. 65 This article provides a twenty-year historical review of the treatment of international arbitration interpretation of the N.Y. convention and its implementing legislation. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Alfini, James J.** "Trashing, Bashing, and Hashing it Out: Is This the End of 'Good Mediation'?" Florida State University Law Review June 22, 1991 - Summer V.19 N.1 pp. 47-75 The author, after examining court sponsored mediation in Florida, concludes that certain institutional concerns and related practices threaten to transform mediation from a consensual to a coercive process. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: SELECTION/ COURT REFORM

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Alley, John-Edward; Oehler, Angela S. "The Arbitration of Age Discrimination Cases: Will Clauses in Employment Contracts be Enforced?" Florida Bar Journal December, 1991 V.65 N.11 pp. 29-32 This article discusses the Supreme Court's Gilmer decision in light of its role in ensuring the enforceability of employment contract arbitration clauses in age-discrimination cases. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION

Amundson, Jon "Divorce Mediation in the Light of Cybernetic Explanation" Mediation Quarterly Winter, 1991 V.9 N.2 p.137 The author proposes a cybernetic approach to mediation which focusses on how things look, what patterns led to the problem, and how can those old patterns be broken or new patterns introduced. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

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V.42 N.2 pp. 121-124 The authors argue that arbitration may not be in the best interest of employers in wrongful termination cases. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS

Angel, Carol "Superior Court Ending Retired Jurist Program; 'Full-Time' Scheme Will Replace Public 'Rent-a-Judges' soon; Funding Law Spurs Shift" The Los Angeles Daily Journal December 19, 1991 V.104 N.251 p. 1 California's revision of the rent-a-judge program due to budget cut-backs results in the appointment of a few full-time retired judges and eliminates the need for stipulation by the individual parties. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ 3RD PARTY: SELECTION/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

Angyal, Robert S. "Enforceability of Alternative Dispute Resolution Clauses" Australian Dispute Resolution Journal February, 1991 V.2 N.1 pp. 32-39 Australian courts enforce arbitration clauses but not "disputes" (mediation) clauses. The author provides a model clause providing for pre-litigation mediation which the courts should enforce. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: OBTAINING AGREEMENT TO USE/ ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ COMPARISONS: CROSS-CULTURAL

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Austin, Gary W.; Jaffe, Peter G.; Hurley, Pamela M. "Incorporating Children's Needs and Views in Alternative Dispute Resolution Approaches" Canadian Family Law Quarterly August, 1991 V.8 N.1 pp. 69-79 Mental health professionals can assist families facing divorce by offering aid in alternative dispute resolution processes such as family assessment, mediation and arbitration. MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/ MED: PSYCH FACTORS/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

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**Bacow, Lawrence S.; Wheeler, Michael** "Binding Parties to Agreements in Environmental Disputes" Villanova Environmental Law Journal January, 1991 - Winter V.2 N.1 pp. 99-109 This author examines the problems of compliance often associated with negotiated agreements involving environmental issues. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: ENVIRONMENT/ COMPLIANCE ISSUES

**Ballem, John Bishop** "Fast-Track Arbitration on the International Scene" The American Review of International Arbitration 1991 V.2 N.2 p. 152 The author describes fast track procedures in the International Court of Arbitration which were exemplary because of the speed at which disputes were resolved. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR

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ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COMPARISONS: HISTORICAL

**Barkai, John; Kassebaum, Gene** "Pushing the Limits on Court-Annexed Arbitration: The Hawaii Experience" The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 133-153 This article evaluates the effectiveness of Hawaii's mandatory Court-Annexed Arbitration Program in light of its efforts to reduce attorney fees by raising the jurisdictional ceiling on arbitration awards to \$150,000.

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**Bautz, Barbara J.; Hill, Rose M.** "Mediating the Breakup: Do Children Win?" Mediation Quarterly Spring, 1991 V.8 N.3 p. 199 Based on an extensive case study the authors conclude that a mediated divorce benefits children in the long run. Mediated divorces result in more harmonious post-divorce relationships and beneficial joint custody agreements. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Beck, Deborah Kaczmarek** "Judicial Remedies - Labor Management Relations Act - The United States Supreme Court Held that Collective Bargaining Agreements" Duquesne Law Review September 22, 1991 - Fall V.30 N.1 pp. 147-166 This student Note on Groves v. Ring Screw Works discusses how the Supreme Court held that collective bargaining agreements without specific reference to judicial remedies cannot be interpreted to strip courts of jurisdiction under Section 301 of the Labor Management Relations Act. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

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MANDATORY, COURT-ANNEXED- GENERAL/ ARB: CLIENT  
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RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING  
RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST  
NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:  
GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH  
REPORT/ COMPARISONS: HISTORICAL/ COURT REFORM/  
ECONOMIC ADVANTAGES OF ADR/ SELECTION OF  
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GOV'T/ SUBJ MATTER: REGULATORY/ COMPARISONS:  
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**MATTER: CORPORATE/ AGREEMENT ON PROCEDURE/  
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**Brown, Louis M.** "Solutions Are More Important - More Beneficial - Than Remedies" Preventive Law Reporter July, 1991 V.10 N.3 pp. 2(1) The author discusses the film Arbitration, Mediation and Preventive Law: Three Techniques, produced by the Harvard Law School, Audio Visual Department (1990), to emphasize the value of ADR. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: CORPORATE/ AGREEMENT ON PROCEDURE/ DISPUTE PREVENTION

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**Carbonneau, Thomas E.** "Introduction" Tulane Law Review September 4, 1991 V.65 N.6 pp. 1303-1307 The introduction describes the vast array of resources comprising emerging scholarship in the field of arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/CONFERENCE PROCEEDINGS

**Cardenas, Emilio J.** "Arbitration and Bankruptcy Procedures - The Argentine Reply: 'La Nacion v. La Razon'" International Business Lawyer December, 1991 V.19 N.11 pp. 527(2) The author discusses the Argentine Supreme Court's decision in Re La Nacion SA v. La Razon SA regarding the scope of the jurisdiction of an arbitral tribunal, and concludes that it may contribute to a more extended use of arbitration among parties doing business in Argentina. ARB: BINDING ARB-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES

**Carpenter, Charles E., Jr.** "Negligence or Neglect - Mistake or Grievance: Lawyer Conduct and the Limits of the Grievance Process" South Carolina Law Review June 22, 1991 - Summer V.42 N.4 pp. 943-958 This article offers guidance as to which legitimate claims a

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Grievance Board has the responsibility to hear, and also mentions a number of alternative mechanisms to resolve attorney/client disputes such as fee dispute resolution and liability insurance. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER PROF MALPRACTICE/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE

**Carper, Donald L.** "Remedies In Business Arbitration" Arbitration Journal September, 1991 V.46 N.3 pp. 49-58 This article considers recent cases and older doctrines concerning an arbitrator's ability to award remedies which might otherwise be available through judicial resolution of disputes. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ COMPARISONS: HISTORICAL/ COMPLIANCE ISSUES/ COURT REFORM

**Carr, F. Housley** "Heading Off Environmental Disputes" Engineering News - Record February 11, 1991 V.226 N.6 p. 32 This article reports on the trend of states setting up their own in-house agencies to mediate environmental disputes. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR

**Carroll, Robert M.** "Quasi-Judicial Immunity: The Arbitrator's Shield or Sword?" Journal of Dispute Resolution March 22, 1991 - Spring 1991 N.1 pp. 137-149 The author discusses the California case, Howard v. Drapkin, which held that an arbitrator is entitled to absolute quasi-judicial immunity in child custody disputes. The author believes this will lessen arbitration's appeal, since the decision takes away the arbitrator's incentive to be impartial. ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: CONFLICT OF INTEREST/ SETTLEMENT: PRESSURES TO SETTLE

**Carter, James H.** "The Enforcement of Agreements to Arbitrate and Arbitral Awards in Canada and the United States: Domestic and

International" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 481-489 This article compares and contrasts methods used by American and Canadian courts to enforce arbitration agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Castel, J.-G. "The Enforcement of Agreements to Arbitrate and Arbitral Award in Canada" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 491-514 This article examines the application of Canadian law to domestic and international arbitration agreements and awards. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: COMMERCIAL/ COMPLIANCE ISSUES

Chadwick, Kyle "ADR Pay Off At Eaton" The American Lawyer March, 1991 p. 46 The article describes the adoption of ADR techniques by the Cleveland-based Eaton Corporation. The corporation resolved approximately twenty-five percent of its disputes with ADR over a one-year period, primarily by nonbinding mediation. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: REP OF A CLIENT DURING PROCESS/ MED: DRAFTING SETTLEMENT AGREEMENTS/ NON-BINDING RECOMMENDATION PROC- GENERAL

Charla, Leonard F.; Parry, Gregory J. "Mediation Services: Successes and Failures of Site-Specific Alternative Dispute Resolution" Villanova Environmental Law Journal January, 1991 - Winter V.2 N.1 pp. 89-97 This article addresses the development and application of alternative dispute resolution principles in the environmental arena since the enactment of federal environmental legislation. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Charlesworth, Stephanie "The Acceptance of Family Mediation in Australia" Mediation Quarterly Summer, 1991 V.8 N.4 p. 265 The author surveys the development of mediation in Australia and discusses possible problems with the use of mediation in family disputes. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/

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MED: COUNSELING/ SUBJ MATTER: FAMILY (DOMESTIC REL)/  
COMPARISONS: CROSS-CULTURAL

**Chernick, Richard** "Donovan Leisure Newton and Irvine ADR Practice Book" (book review) Los Angeles Lawyer October, 1991 V.14 N.7 pp. 57(3) This book is found to offer an in-depth look at all forms of ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: BINDING ARB- GENERAL

**Chinkin, C.M.; Sadurska, Romana** "Learning About International Law Through Dispute Resolution" International and Comparative Law Quarterly September, 1991 V.40 N.3 pp. 529-550 The authors, drawing upon the experiences of developing and teaching an international dispute resolution course, discuss the functioning of the international legal process and conclude that dispute resolution can provide a different perspective for the formation and operation of substantive legal rules. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: INT'L/ TEACHING

**Chinkin, Christine M.** "Commercial Alternative Dispute Resolution" (book review) Sydney Law Review March, 1991 V.13 N.1 pp. 111-115 The book's author, Maxwell J. Fulton, examines arbitration, final-offer arbitration, mediation, mini-trials, and rent-a-judge, and provides a very good overview of each. He also summarizes the main methods used for the resolution of commercial disputes. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ ARB: PRIVATE JUDGING/ SUBJ MATTER: COMMERCIAL

**Chinkin, Christine; Sadurska, Romana** "The Anatomy of International Dispute Resolution" Ohio State Journal on Dispute Resolution September 22, 1991 - Fall V.7 N.1 pp. 39-81 The authors discuss the processes of international disputes and the relevant international law surrounding the processes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND

TECHNIQUES- POWER/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ SUBJ MATTER: RENTAL HOUSING

**Chisholm, Richard** "Mediation Services for the Family Court: Something New Under the Sun?" Australian Journal of Family Law December, 1991 V.5 N.3 pp. 277-280 The author discusses the Mediation and Arbitration Act of 1991 which introduces mediation into the Family Court System of Australia. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ COURT REFORM

**Chodos, Rafael** "Solving Disputes Doesn't Have to be Complex" The Los Angeles Daily Journal May, 1991 V.104 N.170 p. 7 The author proposes a new system of resolving disputes that will make the present system look as outdated as 10th century trials by combat and ordeal. INST NATURE: GENERAL/ COMPARISONS: HISTORICAL

**Christian Buhring-Uhle** "The IBM-Fujitsu Arbitration: A Landmark in Innovative Dispute Resolution" The American Review of International Arbitration 1991 V.2 N.1 p. 113 This article examines the complex procedures and resolutions of the IBM-Fujitsu arbitration relating to computer software proprietary rights claims. The author concludes this case provides an interesting example of the use of a combination of dispute resolution techniques to design a procedure for a particular conflict in the international commercial arbitration framework. MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ SELECTION OF APPROPRIATE PROCESS

**Chukwumerije, Okezie** "ICSID Arbitration and Sovereign Immunity" Anglo-American Law Review April, 1991 V.19 N.2 pp. 166-182 This paper examines the effect of sovereign immunity on arbitrations conducted under the control of the International Centre for the Settlement of Investment Disputes (ICSID). NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: FINAL OFFER ARB/ SUBJ MATTER: RENTAL HOUSING

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**Churchman, Peter** "Tracing the Arc of the Pendulum: The Regulation of Collective Bargaining in New Zealand" New Zealand Law Journal October, 1991 pp. 350-358 This is the second part of a two-part article based on the author's study of the comparative history of collective bargaining in the United States and New Zealand. In this part, the author deals with the reformed New Zealand system and examines if it is truly contractualist. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL

**Clark, D. Lewis, Jr.** "Alternative Dispute Resolution Under Ohio's Lemon Laws: A Critical Analysis" Ohio State Journal on Dispute Resolution March 22, 1991 - Spring V.6 N.2 pp. 333-345 The author suggests that Ohio should adopt lemon law arbitration programs so that consumers will have an accessible, fair, and expedient forum rather than having to go through costly civil litigation. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CONSUMER/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ DISPUTE NEG. v. DEAL MAKING

**Clark, Jeffrey J.** "International Arbitration - Foreign Arbitral Awards - Algerian Accords Represent An "Agreement in Writing" For Purpose of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards" Suffolk Transnational Law Journal March 22, 1991 - Spring V.14 N.2 pp. 658-671 The article examines the history surrounding the President's actions during the Iran hostage crisis, and whether the President's actions created in effect an "agreement in writing" which was enforceable in the international forum. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SETTLEMENT: AUTHORITY

**Clark, John** "Managing Conflict: An Interdisciplinary Approach" The International Journal of Conflict Management April, 1991 V.2(2) p. 159-162 This book contains a compilation of papers presented in the 1987 First International Conference of the Conflict Management Group which target such areas as organizational conflict, communication and conflict, negotiation, mediation and integrating perspective. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR

**Clarke, Jack** "Alternative Dispute Resolution: An Introduction" The Alabama Lawyer May, 1991 V.52 N.3 pp. 126(7) This article offers an overall look at different methods of alternative dispute resolution and a brief evaluation of the various procedure involved. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

**Clarke, Stevens H.; Donnelly, Laura F.; Grove, Sara A.** "Court-Ordered Arbitration in North Carolina: Case Outcomes and Litigant Satisfaction" The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 154-182 This article evaluates North Carolina's pilot program of court-ordered arbitration as a standard procedure in civil damage suits and concludes it has achieved mixed results. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: PUBLIC POLICY

**Cleary, Anthony** "Coercive Mediation" Family Law March 22, 1991 V.21 pp. 121(1) This article comments on the need for a solution to the backlog of family law cases in Great Britain, suggesting the establishment of a national mediation program by the bar as a remedy to the problem. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/



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MATTER: FAMILY (DOMESTIC REL)

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ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:  
BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING  
AGREEMENT TO ARB/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ  
MATTER: LABOR-DISCRIMINATION

Cloke, Kenneth "Conflict Resolution Systems Design, the United Nations, and the New World Order" Mediation Quarterly Summer, 1991 V.8 N.4 p. 343 The author lists fifteen suggestions for immediate improvement in U.N. processing of international disputes, and details system design principles that will help avoid international conflict.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GOV'T/  
SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Cob, Sara; Rifkin, Janet "Neutrality as a Discursive Practice: The Construction and Transformation of Narratives in Community Mediation" Studies in Law, Politics, and Society January, 1991 - Annual V.11 pp. 69-91 The authors describe mediators as facilitators of a story telling process, but they believe that by trying to achieve consensus, mediators adopt one side's version of a dispute and adapt questions to the other side based on it, leading to domination. They believe that by examining ways mediators act in developing stories, a new vocabulary is created that allows for a discussion of their neutrality.

MED: RELATED  
PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY  
AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/  
MED: PSYCH FACTORS/ TYPE OF SOURCE: CASE  
STUDY/RESEARCH REPORT

Cobb, Sara "Einsteinian Practice and Newtonian Discourse: An Ethical Crisis in Mediation" (book review) Negotiation Journal January, 1991 V.7 N.1 p. 87 The author discusses the widening chasm between theory and practice in mediation in this review of three important new books in the field of mediation: Rogers and McEwen's (1989) Mediation: Law, Policy, Practice; Haynes and Haynes' (1989) Mediating Divorce; and Kressel and Pruitt's (1989) edited volume entitled Mediation Research.

**MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ ETHICS: GENERAL/ FISS**

**Cobb, Sara; Rifkin, Janet** "Practice and Paradox: Deconstructing Neutrality in Mediation" Law and Social Inquiry January, 1991 - Winter V.16 N.1 pp. 35-62 The authors discuss neutrality as a key concept of mediation and challenge current definitions of neutrality in light of their research.

**MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: LIABILITY & IMMUNITY/ 3RD PARTY: NEUTRALITY**

**Coben, James R.** "Community-Based Dispute Resolution" (ADR Symposium) Hamline Journal of Public Law and Policy March 22, 1991 - Spring V.12 N.1 pp. 13-34 This article explores community dispute resolution programs, their advantages, costs, and need for public funds.

**SUBJ MATTER: COMMUNITY/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS/ SUBJ MATTER: PUBLIC POLICY**

**Cochran, Robert F.** "Suing Lawyers Who Sue; Litigators Should be Liable for Malpractice if They Don't First Offer Mediation to Clients" California Lawyer April, 1991 V.11 N.4 pp. 120(1) The author compares litigation to surgery to suggest that, like a surgeon's duty to inform patients of alternatives to surgery, a lawyer should, by analogy, be required to inform clients about alternatives to litigation. Failing to do so, in the author's opinion, could lead to professional malpractice.

**MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: OTHER PROF MALPRACTICE/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS**

**Cohen, Lester** "Mandatory Mediation: A Rose By Any Other Name" Mediation Quarterly 1991-92 V.9 N.1 p. 33 The author analyzes mandatory mediation in California child custody cases and the effectiveness of the process given the lack of confidentiality which is present in traditional, voluntary mediation.

**MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES/ CONFIDENTIALITY/ FAIRNESS**

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**Collins, Richard C.** "The Emergence of Environmental Mediation" Virginia Environmental Law Journal February 4, 1991 - Fall V.10 N.1 pp. VI-X This brief article examines the development of the Institute for Environmental Negotiation and the present state of environmental dispute resolution. The author feels that environmental dispute resolution will become important in formulating environmental policy in the future.  
MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: CRIMINAL

**Comisky, Marvin; Cohen, Frederick** "Proposal to Accelerate Disposition of Domestic Relations Matters; Use of Special Arbitrators for Common Law Arbitration" Pennsylvania Bar Association Quarterly April, 1991 V.62 N.2 pp. 97-101 The author invites the Supreme Court of Pennsylvania to designate Special Arbitrators who may act pursuant to common law arbitration of domestic issues as it will mean faster and less traumatic solutions to disputes relating to domestic relations.  
MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COURT REFORM

**Condlin, Robert J.** "Bargaining in the Dark: The Normative Incoherence of Lawyer Dispute Bargaining Role" Maryland Law Review January, 1991 - Winter V.51 N.1 pp. 1-104 The author examines the contradictions in the ethical and practical norms in bargaining and proposes a means for eliminating the confusion.  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: PRACTICE OF LAW/ ROLE OF LAWYERS

**Connors, Eugene K.** "Remarks on the Current and Future Use of Alternative Dispute Resolution in the United States." Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 337-341 This article focuses on the use of ADR by employers, arguing that ADR mechanisms are less costly and less disruptive.  
MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-SUMMARY JURY TRIAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: PRESSURES TO SETTLE

**Connors, Eugene K.; Bashore-Smith, Brooke** "Employment Dispute Resolution in the United States: An Overview" Canada-United States

**Law Journal** December 22, 1991 - Winter V.17 N.2 pp. 319-341 This article outlines the most common methods of employment dispute resolution and highlights recent trends in the area. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL

**Coombe, George W.** "The Future: Implementing New Approaches to the Settlement of Transnational Commercial Disputes." Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 533-608 This article provides a variety of new ADR approaches for the settlement of transnational disputes. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM-SPECIAL MASTERS/ SUBJ MATTER: COMMERCIAL

**Coplan, Norman** "Law: The Finality of an Architect's Decision; Arbitration Case Over Architect's Judgment of Contractor's Work Column" Progressive Architecture November, 1991 V.72 N.12 p. 41 The article describes the case of Ruffin Woody and Assoc. v. Person County in which an architect's decision about a contractor's work was superseded by an appellate court and the sides were forced to go to arbitration to resolve the dispute. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

**Coulson, Richard E.** "Is Contractual Arbitration an Unconstitutional Waiver of the Right to Trial by Jury in Oklahoma?" Oklahoma City University Law Review December, 1991 - Spring V.16 N.1 pp. 1-79 This article analyzes contractual arbitration under the Oklahoma Constitution and concludes that it is not in conflict with the latter. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GENERAL

**Coulson, Robert** "Reinsurance Arbitration: It's Time for a Tune-Up" Arbitration Journal September, 1991 V.46 N.3 pp. 39-48 This article suggests reasons why the party appointed system is a holdover from earlier times when administrative agencies were not available and maintains that the additional costs and uncertainties of this process may no longer be appropriate. INST NATURE: GOV'T ENTITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ ECONOMIC ADVANTAGES OF ADR

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**Coulson, Robert** "The Future of International Commercial Arbitration" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 515-518 This article discusses the shortcomings of international commercial arbitration and suggests components of an ideal system. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L

**Coulson, Robert** Business Arbitration - What You Need to Know This book, written by the president of the American Arbitration Association, provides practical information for the practitioner on commercial alternative dispute resolution. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-SUMMARY JURY TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL

**Cox, Gail Diane** "Arbitrating What Lawyers Bill; Clients Find They Sometimes Can Win Cuts in this Increasingly Popular Forum" The National Law Journal April 8, 1991 V.13 N.31 p. 1 This article reports on the increasing popularity and success of lawyer-arbitration panels where clients who feel they have been overcharged can settle their disputes. INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: OTHER PROF MALPRACTICE/ FISS/ ROLE OF LAWYERS

**Cox, Garylee** "The Selection Process and the Appointment of Arbitrators" Arbitration Journal June, 1991 V.46 N.2 pp. 28-34 This article explains the process of selecting arbitrators in a practical fashion and suggests the importance of this process to the parties involved in the dispute. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ COMPLIANCE ISSUES

**Crabbe, Stephen** "Employing ADR to Resolve Complex Environmental Disputes" Arbitration Journal March, 1991 V.46 N.1 pp. 48-58 The author discusses the details of an ADR procedure used by a Maryland state court judge to resolve complex factual disputes in a multi-defendant asbestos law-suit.

ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ JUDICIAL PARTICIPATION

**Crowfoot, James E. and Wondollock, Julia M.** Environmental Disputes

This book is a review of processes for citizen organizations to settle environmental disputes based on case studies and strategies for alternative dispute resolution.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: SELECTION

**Crozier, Lawrence J.** "The Status of International Arbitration Awards Under Canadian Insolvency Law" Canadian Business Law Journal

August, 1991 V.18 N.2 pp. 294-300 The author examines the conflict that results when an award of an international arbitration tribunal, under the Model Law on International Commercial Arbitration, comes into conflict at the enforcement stage with Canadian insolvency adjudication.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL/ COMPLIANCE ISSUES

**Curtis, Fred A.** "Private Agreements in Residential Development Disputes" Mediation Quarterly Spring, 1991 V.8 N.3 p. 225 The

article uses case studies to show how normal processes are ineffective in residential development disputes. The author suggests criteria on how the mediation process may be better suited. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: CONSTRUCTION/ ECONOMIC ADVANTAGES OF ADR

**Cushman, Robert F.; Hedemann, G. Christian; Tucker, Auran C.** Alternative Dispute Resolution In The Construction Industry This comprehensive book covers all aspects of ADR in the construction industry, including how to select a third-party neutral, using mediation effectively in construction disputes, and international arbitration. The beauty of this compilation is not only the wide coverage of subject matters, but also the expertise of the authors, most of whom are attorneys practicing ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: PSYCH CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSTRUCTION/ 3RD PARTY: PRACTICE OF LAW/ ECONOMIC ADVANTAGES OF ADR

**D'Alemberte, Talbot** "ABA Officer: ADR Has Come Into Its Own" Arbitration Journal March 7, 1991 V.46 N.1 pp. 3(4) The comments of Talbot D'Alemberte, president elect of the American Bar Association, delivered in a February 27 speech to the AAA's Arbitration Day 1991 event are reprinted in this passage. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION

**Dahl, Joan G.** "Conflict Resolution: The Analytic Hierarchy Approach by Thomas L. Saaty and Joyce M. Alexander" The International Journal of Conflict Management 1991 V.2 N.1 pp. 72-74 The authors describe the Analytical Hierarchy Process (AHP) for conflict resolution. They discuss the elements of this process then show how a conflict analyst can

apply it to various conflicts in the international arena. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

**Dannin, Ellen J.** "Three Years Out: The Labour Court's Treatment of Dispute Resolution Procedures" Victoria University of Wellington Law Review June, 1991 V.21 N.3 pp. 259-274 The author evaluates the performance of the Labour Court, concluding that, with a few reservations, the Court's decisions appeal were suited to the law it is interpreting and the facts of the particular case. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM/ JUDICIAL PARTICIPATION

**Dauer, Edward A.** "'When I Am In Litigation, I Am Out of Control'; Justice, Irrelevant: Speculations on the Meaning of a Movement" Preventive Law Reporter September, 1991 V.10 N.3 pp. 18(7) The author promotes the use of ADR as superior to traditional litigation and then hypothesizes why ADR is growing in popularity, citing globalization, legal growth, and the inability of our judicial system to accommodate all needs. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL

**Davenport, Andrew A.** "Consolidation of Separate Arbitration Proceedings: The Effect of the United States Arbitration Act on the District Court's Power Under Federal Rules of Civil Procedure 42(a) and 81(a)(3)" Mercer Law Review June 22, 1991 - Summer V.42 N.4 pp. 1675-1687 The article examines the differing federal court decisions on the issue of whether separate arbitrations may be consolidated under the United States Arbitration Act, and concludes that the circuits holding that federal courts lack this power have unduly narrowed the liberal policy of the Act. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ LEGISLATION



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**Davenport, B.J.** "Extending Time for Arbitration" Lloyds Maritime and Commercial Law Quarterly February, 1991 N.1 pp. 15-18 This is a case comment analyzing Comdel Commodities Ltd. Siporex Trade S.A. (Great Britain), questioning the court's power to extend the proscribed period under which a party could bring an action under the arbitration agreement. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ JUDICIAL PARTICIPATION

**David, Jennifer** "Integrating Alternative Dispute Resolution (ADR) in Law Schools" Australian Dispute Resolution Journal February, 1991 V.2 N.1 pp. 5-11 Dispute Resolution must be made an integral part of the law school curriculum if students are to take it seriously. Ways to do this include teaching it in criminal and contract law classes and designing mandatory seminars. 3RD PARTY: TRAINING/ ROLE OF LAWYERS/ TEACHING/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR

**Davidson, Fraser** "The Immunity of Arbitrators" Lloyds Maritime and Commercial Law Quarterly November, 1991 N.4 pp. 546-547 The author reviews the book The Immunity of Arbitrators, which discusses the immunity of arbitrators in England and in other Western countries. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ 3RD PARTY: LIABILITY & IMMUNITY/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

**Davidson, Paul J.** "International Commercial Arbitration Law in Canada" Northwestern Journal of International Law & Business March 22, 1991 - Spring-Summer V.12 N.1 pp. 97-123 This article discusses the growth of arbitration law in Canada and suggests that Canada has gone from one of the most unfavorable to one of the most favorable sites for International Commercial Arbitration. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: GENERAL/ SUBJ MATTER: RENTAL HOUSING/ SETTLEMENT: AUTHORITY

**Davidson, Robert B.** "You Don't Always Need a Lawyer: How to Resolve Your Legal Disputes Without Costly Litigation" Arbitration Journal September, 1991 V.46 N.3 pp. 70-71 The article reviews a book on resolving disputes and alternative dispute resolution. The writer of the article recommends the book to laymen, but not practicing attorneys. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-

GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-  
THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/  
NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING  
ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER:  
GENERAL/ ECONOMIC ADVANTAGES OF ADR

**Davies, Iyla; Clarke, Gay** "ADR Procedures in the Family Court of Australia" Queensland Law Society Journal October, 1991 V.21 N.5 pp. 391-403 The author examines the non-adjudicative dispute resolution procedures offered by the Family Court of Australia. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: PSYCH FACTORS/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: NEUTRALITY/ AGREEMENT ON PROCEDURE/ COURT REFORM

**Davis, Albie M.** "Follett on Facts: Timely Advice from An ADR Pioneer" Negotiation Journal January, 1991 V.7 N.2 p. 131 This article reviews the teachings of Mary Parker Follett and her work, Creative Experience, as the pioneer of integrative negotiations including the highlights of the 15 main points of the work. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: PSYCH CONSIDERATIONS/ TYPE OF SOURCE: BOOK REVIEW/ FAIRNESS

**Davis, Benjamin** "Fast-Track Arbitration: An ICC Counsel's Perspective" The American Review of International Arbitration 1991 V.2 N.2 p. 159 The author traces the steps of a successfully completed fast-track arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: PREPARATION

**Davis, Gwynn** "Mediation - An Addition to the Judicial Repertoire" New Law Journal March 22, 1991 V.141 N.6496 pp. 396(2) The involvement of the solicitor seems to be the key to the recent trend for judges and registrars to act as mediators in divorce cases. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED:

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(DOMESTIC REL)/ COMPARISONS: CROSS-CULTURAL

Davis, Gwynn "Mediation Appointments on Money and Property in the Bristol County Court" Family Law April, 1991 V.21 pp. 130-135 This article discusses the results of mediated, court-directed bargaining over property and money disputes arising in family courts in the United Kingdom, addressing the potential for quicker resolution of disputes by proper preparation by the attorney. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: PUBLIC POLICY DIALOGUE/ MED: REP OF A CLIENT DURING PROCESS/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

Davis, James Z. "What is ADR" Utah Bar Journal December, 1991 V.5 N.1 pp. 4(2) This article examines the different alternative dispute resolution methods in an attempt to familiarize the general public with their advantages and disadvantages. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR

Davis, Mark David "International Commercial Arbitration and the Courts 1991 Guide to International Arbitration and Arbitrators" Foreign Investment Law Journal September 22, 1991 - Fall V.6 N.2 pp. 610-612 This article reviews two separate publications of the Parker School of Foreign and Comparative Law of Columbia University. International Commercial Arbitration and the Courts (1990) is an index of court cases, national laws, and commentary, and is noted as a finding aid that is hampered by its citations-only format. The 1991 guide to International Arbitration and Arbitrators is a two-volume reference to international rules and international arbitrators; both volumes are noted to be of great value in the beginning stages of arbitration. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ JUDICIAL PARTICIPATION

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a panel discussion conducted at the 85th meeting of the American Society of International Law in Washington D.C. on April 17-20, 1991. The panel discussed the developing areas of international dispute resolution and institutions. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: PRIVATE JUDGING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: RENTAL HOUSING

**Dayton, Kim** "The Myth of Alternative Dispute Resolution in the Federal Courts" Iowa Law Review July, 1991 V.76 N.5 pp. 889-957 This article provides a critical analysis of alternative dispute resolution (ADR) and concludes that ADR's recent praises are unfounded. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

**De Ly, Filip** "The Place of Arbitration in the Conflict of Laws of International Commercial Arbitration: An Exercise in Arbitration Planning" Northwestern Journal of International Law & Business November 2, 1991 N.1 p. 48-85. The author notes the declining importance in the selection of a place of arbitration in international commercial arbitration, and makes suggestions relevant to the choosing of a place for purposes of arbitration planning. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS

**De Maria, William** "The Administrative Appeals Tribunal: Legal Parsitism and The Death of Mediation" Queensland Law Society Journal April, 1991 V.21 N.2 pp. 109-117 The author examines mediation in the Administrative Appeals Tribunal in Queensland and concludes that the legal culture has overgrown ADR there and the result is increased processing time, fewer settlements, more hearing, and increased inefficiency. MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ TYPE OF

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ETHICS: GENERAL/ ROLE OF LAWYERS

DeGaris, Annesley H. "The Summary Jury Trial: Judicial Alternative Dispute Resolution" Australian Dispute Resolution Journal February, 1991 V.2 N.1 pp. 51-66 Summary Jury Trial is the most controversial form of ADR. The author advocates use of SJT to ensure efficient use of judicial resources, so long as the particular cases are carefully selected, the jury is not told in advance its decision is non-binding, and the parties are allowed to question the jury afterwards. NON-BINDING  
RECOMMENDATION PROC- SUMMARY JURY TRIAL

Denenberg, Tia Schneider; Denenberg, R. V. "The Arbitration of Employee Substance Abuse Rehabilitation Issues" Arbitration Journal March, 1991 V.46 N.1 pp. 17-33 The author suggests guidelines for dealing with substance abuse as a disability which he developed from arbitrators' efforts to grapple with these issues. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: CLIENT REP/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR

DeToro, Anthony "Waiver of the Right to Compel Arbitration of Investor-Broker Disputes" Cumberland Law Review March 22, 1991 - Spring V.21 N.3 pp. 615-627 The author analyzes the case law surrounding the waiver defense connected with the FAA. The article attempts to clarify the use of this defense in investor-broker disputes. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES

Devine, Kathleen A. "Alternative Dispute Resolution: Policies, Participation, and Proposals" Review of Litigation December 22, 1991 - Winter V.11 N.1 pp. 83-110 The author delineates basic advantages and disadvantages of ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: TAX/ FAIRNESS

Dick, Anne H. "Court or Conciliation: War and Peace?" (Use for the Family Conciliation Service in Custody Disputes) Scots Law Times September 22, 1991 N.18 pp. 209(4) The author proposes ways in which conciliation in dispute resolution can be improved by their legal profession in resolving child custody issues. NEG: W/ OR W/O

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NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER:  
FAMILY (DOMESTIC REL)/ ROLE OF LAWYERS**

**Dick, S. Gale "ICCA, Yearbook Commercial Arbitration" (book review)  
The American Review of International Arbitration 1991 V.2 N.2 p.  
236 This book review praises the reference value of Yearbook  
Commercial Arbitration and gives a brief synopsis of each section of the  
publication. ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/  
ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ  
MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF  
SOURCE: BOOK REVIEW/ SETTLEMENT: ENFORCEMENT OF  
SETTLEMENT OR AWARD**

**Diktaban, Carol Ann "Employer Supported Child Care as a Mandatory  
Subject of Collective Bargaining" Hofstra Labor Law Journal March 22,  
1991 - Spring V.8 N.2 pp. 385-415 Due to the growing dependence on  
child care for parents today, the author contends that employer supported  
child care must become a mandatory topic to be included in all collective  
bargaining agreements. NEG: CULTURAL CONSIDERATIONS/  
NEG: USE OF BARGAINING TEAMS/ INST NATURE: GOV'T  
ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/  
SUBJ MATTER: PUBLIC POLICY**

**Dilts, David A.; Karim, Ahmad; Rahnama-Moghadam, Mashalah  
"The Arbitration of Disciplinary Matters: Do Objective Standards Make a  
Difference in Proof?" Labor Law Journal October, 1991 V.42 N.10  
pp. 708-712 The authors argue that objective standards and greater  
definition of what constitutes a disciplinary offense result in greater  
guidance to management and an increased chance of management  
prevailing in arbitration. ARB: BINDING ARB- GENERAL/ ARB:  
CLIENT REP/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/  
SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF  
SOURCE: CASE STUDY/RESEARCH REPORT**

**Donahue, William A. "Crisis Bargaining: Tracking Relational Paradox  
in Hostage Negotiation" The International Journal of Conflict  
Management October, 1991 V.2 N.4 p. 257 This paper centers on  
tracking relational paradox through verbal immediacy by exploring nine  
different hostage situations involving negotiation with the police. NEG:  
W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-**

COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-  
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-  
THREATS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF  
BARGAINING TEAMS/ SUBJ MATTER: CRIMINAL/ TYPE OF  
SOURCE: CASE STUDY/RESEARCH REPORT

Donaldson, Thomas "Justice on the Job: Resolving Grievances in the Nonunion Workplace" (book review) Ethics April, 1991 V.101 N.3 pp. 665-666 A book review of Justice on the Job: Resolving Grievances in the Nonunion Workplace (1989), by David W. Ewing, which analyzes the need for more humane treatment of employees by managers in light of the demise of unions, and evaluates at length several progressive processes adopted by U.S. Corporations that allow for better employer-employee communications. NEG: W/ OR W/O ASSIST OF 3D-PARTY  
NEUTRAL- GENERAL/ NON-BINDING RECOMMENDATION  
PROC- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ  
MATTER: LABOR-GENERAL/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:  
EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: BOOK  
REVIEW

Downing, Richard C.; James, Patrick R. "Arbitration of a Securities Dispute - An Overview for the Practitioner" University of Arkansas at Little Rock Law Journal June 22, 1991 - Summer V.13 N.4 pp. 621-646 A thorough examination of the arbitration of a securities dispute before the National Association of securities, dealers, providing litigators an overview of the process. ARB: BINDING ARB- GENERAL/ ARB:  
CLIENT REP/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/  
SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/  
SUBJ MATTER: SECURITIES

Draetta, Ugo "Precontractual Documents in Merger or Acquisition Negotiations: An Overview of the International Practice" North Carolina Journal of International Law and Commercial Regulation January, 1991 - Winter V.16 N.1 pp. 45-68 The author discusses the use of precontractual merger documents in international merger/acquisition negotiations with a focus on the question of when these documents have a binding nature or legal effect. NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES  
AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND  
OFFERS/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER:  
CORPORATE/ SUBJ MATTER: INT'L/ CONFIDENTIALITY

**Dunlop, C.R.B.** "The Art of Collective Bargaining" (book review) Alberta Law Review March 22, 1991 - Spring V.29 N.3 pp. 741-743  
The reviewer believes that this book will be helpful to those who are beginning practice in labor law, but states that its usefulness as a law book is limited due to its limited focus on labor law in Ontario and its lack of footnotes, tables of cases or statutes, or any other reference to the law.  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:  
EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: BOOK  
REVIEW

**Dupraw, Marcelle; Lave, James** "Resolving Environmental Conflicts" (book review) EPA Journal September, 1991 - October, 1991 p. 57  
The reviewer finds that the book underscores several important themes in arbitration, including the parties having a clear understanding of the mediators role and communication. MED: RELATED  
PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/  
MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/  
SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMUNITY/ TYPE  
OF SOURCE: BOOK REVIEW

**Duston, Robert L.** "Gilmer v. Interstate/Johnson Lane Corp.: A Major Step Forward For Alternative Dispute Resolution, or a Meaningless Decision?" The Labor Lawyer September 22, 1991 - Fall V.7 N.4 pp. 823-848  
The author argues that Gilmer v. Interstate/Johnson Lane Corp., 111 S. Ct. 1647 (1991), ought not be read to exclude industries outside the securities industry. ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL  
REVIEW/ SUBJ MATTER: LABOR-DISCRIMINATION/  
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

**Dworkin, Joan; Lynn Jacob, Elizabeth Scott** "The Boundaries Between Mediation and Therapy: Ethical Dilemma" Mediation Quarterly Winter, 1991 V.9 N.2 pp. 107  
The authors examine the situation in which an individual serves as both a mediator and a therapist, the professional standards of conduct and ethics, and case examples. MED: RELATED  
PROCESSES-GENERAL/ MED: COUNSELING/ MED: PSYCH  
FACTORS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/  
ETHICS: GENERAL/ FAIRNESS

**Eckelaar, John** Regulating Divorce The author examines divorce regulation in England by tracing the history of divorce ideology, as it first



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was influenced by Christian morality, through the present day with an emphasis on discerning the policies at work in divorce legislation that covers topics like child support, parental responsibility, and divorce agreements. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: GOV'T/ INST NATURE: JUSTICE SYSTEM-OTHER CIVIL COURTS/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: HISTORICAL/ REQUIREMENTS: MANDATE TO USE/ FAIRNESS/ JUDICIAL PARTICIPATION/ LEGISLATION

Effron, J.E. "Breaking Adjudication's Monopoly: Alternative to Litigation Come to Law School" Australian Dispute Resolution Journal February, 1991 V.2 N.1 pp. 21-31 The author advocates establishing a clearly identifiable class of solicitor specialists trained in dispute resolution so would not require major changes in Australian legal education. MED: RELATED PROCESSES-GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ ROLE OF LAWYERS/ TEACHING

Efthimiou, Marcus Paul "State Legislative Attempts to Mandate Continuation of Collective Bargaining Agreements During Business Change: The Unfulfilled expectations and the Pre-Empted Results" Cornell Law Review November, 1991 V.77 N.1 pp. 47-102 The article compares the Federal approach of balancing the rights of an owner to rearrange his business and the protection of employment contracts with the approach taken in some states whereby continuation of collective bargaining agreements are mandatory. SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ POWER IMBALANCE

Einsel, H. Lee, Jr.; Rodman, Frank A. "Negotiability in the Federal Sector - Focusing on Impasse Resolution" Air Force Law Review March 22, 1991 - Spring V.35 pp. 147-168 This article describes the elements of collective bargaining negotiations, and the special difficulties that arises when bargaining with a federal sector union. The article also evaluates the advantages and disadvantages of using a neutral third-party arbitrator to facilitate a settlement. NEG: W/ OR W/O ASSIST OF 3D-PARTY

NEUTRAL- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ  
MATTER: LABOR-MANAGEMENT (UNIONS)/ 3RD PARTY:  
NEUTRALITY

**Eisele, G. Thomas** "The Case Against Mandatory Court-Annexed ADR Programs" Judicature June, 1991 V.75 N.1 pp. 34-40 This article argues against mandatory court-annexed ADR programs because they are coercive and deny litigants their "day in court." MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ FAIRNESS

**Elkiss, Helen; Yaney, Joseph** "Recent Trends in Arbitration of Substance Abuse Grievances" Labor Law Journal August, 1991 V.42 N.8 pp. 556-560 The authors studied arbitration awards in substance abuse grievances and found that arbitrators view discipline as corrective, not punitive, and give employees a chance to correct unproductive behavior. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Elliott, David** "When the Hearing is Over: Writing Arbitral Awards in Plain Language" Arbitration Journal December, 1991 V.46 N.4 pp. 53-62 This article provides suggestions on how arbitrators may make their decisions clear and easy to understand. ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT

**Erickson, Stephen K.** "ADR and Family Law" Hamline Journal of Public Law and Policy March 22, 1991 - Spring V.12 N.1 pp. 5-12 This article shows how mediation creates different ground rules so that the mediator can avoid getting caught up in the couple's battle, focusing rather on how to end the battle in a constructive manner. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: TIMING/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS

**Ervin, Joanne Jocha** "Reasonable Accommodation and the Collective Bargaining Agreement Under the Americans with Disabilities Act of 1990" Detroit College of Law Review September 22, 1991 - Fall 1991 N.3 pp. 925-972 A discussion of the Americans With Disabilities Act and the requirement that reasonable provisions accepting the ADA be used despite

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a contrary provision in a collective bargaining agreement. ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER:  
LABOR-GENERAL/ REQUIREMENTS: MANDATE TO USE/  
REQUIREMENTS: STATUTORY OR RULES

Evans, Larry W. "Technology Dispute Resolution in the United States:  
A Practical Perspective" Canada-United States Law Journal December  
22, 1991 - Winter V.17 N.2 pp. 295-307 This article discusses ADR  
techniques used for technology disputes and concludes that such techniques  
lead to superior results. NEG: W/ OR W/O ASSIST OF 3D-PARTY  
NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/  
NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/  
NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/  
ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SCIENCE &  
TECHNOLOGY

Farnsworth, E. Allan "Punitive Damages in Arbitration" Stetson Law  
Review November 2, 1991 N.1-2 pp. 395-410 The author discusses the  
power of arbitrators to award punitive damages and the subsequent  
enforcement of these awards by the courts. NON-BINDING  
RECOMMENDATION PROC- GENERAL/ ARB: BINDING ARB-  
GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO  
ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-  
GENERAL/ SETTLEMENT: AUTHORITY/ SETTLEMENT:  
ENFORCEMENT OF SETTLEMENT OR AWARD

Feldman, Arthur S. "Confusing Federalism With Federal Policy Under  
the FAA" Texas Law Review February, 1991 V.69 N.3 pp. 691-727  
An in-depth analysis of the United States Supreme Court case, Volt  
Information Sciences, Inc. v. Board of Trustees, 489 U.S. 468 (1989) in  
relation to the interpretation of choice-of-law clauses and arbitration  
provisions under the Federal Arbitration Act (FAA). ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING  
AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB  
AGREEMENT/ TYPE OF SOURCE: CASE STUDY/RESEARCH  
REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/  
REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Fellows, Sian "Arbitration and the Assignment of Causes of Action"  
Solicitors Journal November 29, 1991 V.135 N.46 pp. 1292(2)  
Fellows suggests that although the inclusion of an arbitration clause in a  
contract does not bar assignment, under the guidance of recent decisions,  
courts might increase procedural requirements needed when either legal or

equitable assignees of causes of action enter into already pending arbitration as opposed to merely commencing an arbitral proceeding.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ JUDICIAL PARTICIPATION

**Ferrara, Ralph C.; Ertel, Danny** Beyond Arbitration, Designing Alternatives to Securities Litigation 1991 This book describes a methodology for, and offers several illustrations of, alternative dispute resolution and securities litigation. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PREPARATION/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: BOOK REVIEW/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ ECONOMIC ADVANTAGES OF ADR

**Fisher, Linda** "Third Party Neutrals: Issues in Training" Australian Dispute Resolution Journal February, 1991 V.2 N.1 pp. 12-20 This article discusses the various reasons for training third party neutrals and explains various approaches, uses of which depend upon the role of the third party neutral. ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: TRAINING/ TEACHING

**Fisher, Paul** "Tips to Attorneys and Mediators: How to Successfully Mediate a Case" Arbitration Journal September, 1991 V.46 N.3 pp. 59-65 The article examines mediation from a practical viewpoint and offers tips and observations. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: TIMING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL

**Fleishman, A Craig** "ADR and the Lawyer's Fee Agreement" Colorado Lawyer December, 1991 V.20 N.12 pp. 2523(2) The author proposes a plan employing arbitration for resolving attorney/client disputes with the purpose of reducing premiums and credit deductibles. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: OTHER PROF MALPRACTICE/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR

**Fleury, Ronald J.** "Employee 'Handbook' Suits Barred; Arbitration Clause Held to Limit Access to Court" New Jersey Law Journal June 6, 1991 V.128 N.6 pp. 1 This author examines the power inherent in the drafting of arbitration agreements and contracts through analysis of recent

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labor cases involving this issue. SUBJ MATTER: LABOR-GENERAL/  
COMPARISONS: HISTORICAL/ REQUIREMENTS: CONTRACTUAL  
CLAUSES/ AGREEMENT ON PROCEDURE/ COMPLIANCE  
ISSUES/ COURT REFORM

**Forado, Bruce** "Witnesses in Arbitration by Edward Leinn and Donald Grody" (book review) The International Journal of Conflict Management October, 1991 V.2 N.4 pp. 313 The reviewer finds this book, which deals with labor arbitration, to be of useful application to labor, management and legal practitioners. However, the reviewer does not find the book to be a product of "rigorous fieldwork." ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: BOOK REVIEW

**Force, Robert; Mavronicolas, Anthony J.** "Two Models of Maritime Dispute Resolution: Litigation and Arbitration" Tulane Law Review June, 1991 V.65 N.6 pp. 1461-1518 A comparison of arbitration and litigation in resolving maritime disputes points out the advantages and disadvantages of each. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL// SUBJ MATTER: MARITIME/ ECONOMIC ADVANTAGES OF ADR/ FISS/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

**Ford, James T.** "Justice Must Be More Than Expedient" The Los Angeles Daily Journal July 23, 1991 V.104 N.146 p. 6 A response to a criticism by Judge Trotter of the author's disapproval of private judging. The author states that private judging is not a variety of alternative dispute resolution. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GOV'T/ 3RD PARTY: CONFLICT OF INTEREST

**Fortier, L. Yves** "The Law and Economics of Dispute Resolution in the Canada-United States Context: The Canadian Perspective" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 231-245 The author, Canada's former Ambassador to the United Nations, stresses the benefits of utilizing the Alternative Dispute Resolution (ADR) Process at the international level and discusses the various forms of ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY

NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/  
NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER:  
INT'L/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC  
ADVANTAGES OF ADR

**Fox-Andrews, James** "Construction Industry Disputes: Official Referee or Technical Arbitrator - The Pros and Cons" Construction Law Journal September 22, 1991 - Winter V.8 N.1 pp. 2-9 After considering the advantages and disadvantages of an official referee or technical arbitrator in the construction industry the Author concludes that both outweigh the costs of litigation, with a technical arbitrator having a slight benefit.  
NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:  
PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/  
SUBJ MATTER: LABOR-GENERAL

**Fox, Lawrence J.** "Litigation in 2050: A Backward-Forward, Topsy-Turvy Look at Dispute Resolutions" Fordham Law Review November, 1991 V.60 N.2 pp. 297-308 This essay commissioned by the ABA Center for Professional Responsibility takes a look at the legal profession in the year 2050. Fox first points out the dramatic changes in the profession since 1932 and then enters a fictitious dialogue between a lawyer in 2050 and himself after a 59 year state of unconsciousness.  
INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-  
GENERAL/ SUBJ MATTER: OTHER PROF MALPRACTICE/ SUBJ  
MATTER: SCIENCE & TECHNOLOGY/ COMPARISONS:  
HISTORICAL/ ETHICS: GENERAL/ ROLE OF LAWYERS

**Fraser, Bruce** "New Diversity in the American Workplace: A Challenge to Arbitration" Arbitration Journal December 22, 1991 V.47 N.1 pp. 5-15 Diversity in the workplace creates challenges for fact-finding, as the arbitrator may not be receiving an accurate translation of facts, or may be hearing accounts colored by stereotypes. The arbitrator may also face a dilemma when traditional policies, if applied, would yield unjust results.  
ARB: BINDING ARB- GENERAL/ COMPARISONS:  
CROSS-CULTURAL

**Freedman, Lawrence; Gamba-Stonehouse, Virginia** Signals of War: The Falklands Conflict of 1982 1991 The authors explain the conflict, negotiations, diplomacy, and compromises undertaken before and during the Falklands conflict. NEG: W/ OR W/O ASSIST OF 3D PARTY  
NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND

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TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL  
CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE  
OF BARGAINING TEAMS/ NEG: USE OF AGENTS/  
COMPARISONS: CROSS-CULTURAL

**French, R. S.** "Hands-on Judges and User-Friendly Justice" Australian Dispute Resolution Journal November 2, 1991 N.2 pp. 73-83 The author examines the potential role for judicial participation in providing options for ADR. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ JUDICIAL PARTICIPATION

**Friedland, Paul D.; Wong, Eleanor** "Measuring Damages for the Deprivation of Income-Producing Assets: ICSID Case Studies" ICSID REVIEW - Foreign Investment Law Journal September 22, 1991 - Fall V.6 N.2 pp. 400-430 The authors discuss the manner in which arbitral courts under the guidance of the International Centre for Settlement of Investment Disputes (ICSID) value income-producing assets through an examination of various case decisions involved with damage determination.

INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY

**Fu, Hualing** "Mediators and the Law: China and America Compared" International Journal of Comparative and Applied Criminal Justice March 22, 1991 - Spring-Fall V.15 1-2 pp. 81-88 The author explains a difference between neighborhood justice in America and people's mediation in China - namely the requirement of legal knowledge for lay mediators in China. The author concludes that the law cannot do much for mediators in China until mediation becomes connected to the legal system.

MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ COMPARISONS: CROSS-CULTURAL/ COMPLIANCE ISSUES/ FISS

**Fuchsberg, Abraham** "Ten Commandments for Successful Evaluation and Settlement" Trial August, 1991 V.27 N.8 pp. 16(5) The author discusses strategies that can be used as reliable guidelines to negotiating and settling cases.

NEG: W/ OR W/O ASSIST OF 3D PARTY  
NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES- COOP TECHNIQUES/ SETTLEMENT:

**ENFORCEMENT OF SETTLEMENT OR AWARD/ RELATION TO ONGOING LITIGATION**

**Gadlin, Howard** "Careful Maneuvers: Mediating Sexual Harassment" Negotiation Journal January, 1991 V.7 N.2 pp. 139 The article defines sexual harassment, the method by which mediation may be applied in sexual harassment cases, and the relative success of a mediation program in light of a victim's personal motivations to avoid the formal complaint process. MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/ MED: PSYCH FACTORS/ CONFIDENTIALITY/ OMBUDSPERSON

**Garita, Victor M.** "Conceptual Basis For a New Arbitral Statute for Costa Rica: A New Approach in Latin America" Tulane Law Review June, 1991 V.65 N.6 pp. 1633-1660 The author argues for the modernization of arbitration techniques in Costa Rica, and that the countries of Latin America must recognize arbitration as an efficient tool towards legal reform. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM

**Garwood, Fiona** "Divorce and Conciliation in Sweden and Scotland" Mediation Quarterly Summer, 1991 V.8 N.4 p. 293 The author compares and contrasts divorce laws, use of joint custody after divorce, and conciliation procedures in Sweden and Scotland. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: COUNSELING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COMPARISONS: CROSS-CULTURAL

**Gerber, Sandra G.** "The HANDS Program of Minneapolis: A Grassroots, Community-Based Conflict Resolution Program Contrasted With One Other Alternative Dispute Resolution Model" Hamline Journal of Public Law and Policy March 22, 1991 - Spring V.12 N.1 pp. 91-116 This paper describes the development of the HANDS Program of Minneapolis, a neighborhood based conflict resolution program, modelled on the San Francisco Community Board Program. SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: PUBLIC POLICY

**Gertz, Craig M.** "The Selection of Choice of Law Provisions in International Commercial Arbitration: A Case For Contractual Depeage" Northwestern Journal of International Law & Business March 22, 1991 -



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Spring-Summer V.12 N.1 pp. 163-186 The article expounds on the advantages of embracing contractual depechage - the application of different systems of law to different areas of potential dispute - in international commercial arbitration clauses. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES

Gilbert, Arch B. "Mediation: Law, Policy, Practice" (book review) Texas Bar Journal July, 1991 V.54 N.7 pp. 738(2) The author reviews this book, which consists of a general description of the mediation process and certain issues and a large section of detailed appendices, and concludes that it is useful as a general research aid but not a practice book. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Gilchrist, Stephen. "The Lord Chancellor's Alternative Solicitors Journal" May 24, 1991 N.20 pp. 618(1) This editorial discusses a lecture given by Lord MacKay of Clashfern at the Institute of Advanced Legal Studies in London at which he discussed current difficulties in the administration of civil justice and offered alternative solutions for dispute resolution. SUBJ MATTER: GENERAL/ COURT REFORM/ SELECTION OF APPROPRIATE PROCESS

Gillie, Michael S. "Voluntary Mediation: Tool to Assess Risk and Speed Settlements" Corporate Counsel's Quarterly October, 1991 V.7 N.4 pp. 148-157 The author discusses the basics of mediation, including how and why mediation works and how to prepare and represent in a mediation session. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: REP OF A CLIENT DURING PROCESS/ MED: COUNSELING

Gobbi, Mark W.; Gray, John P. "The Arbitration Alternative" New Zealand Law Journal August, 1991 pp. 270-273 This article discusses the need for careful drafting of arbitration clauses in the field of commercial dispute resolution in light of New Zealand case law on the topic. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES

**Gold, George M.** "Negotiating and Settling Personal Injury Claims: The Plaintiff Lawyer's Perspective" Trial Diplomacy Journal March 22, 1991 - Spring V.14 N.1 pp. 5-15 The article discusses practical tips for personal injury lawyers to use in the negotiation of a settlement. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: PRESSURES TO SETTLE

**Gold, Stanley J.** "International Claims Arising From Iraq's Invasion of Kuwait" International Lawyer September 22, 1991 - Fall V.25 N.3 pp. 713-721 This article discusses historical claim settlements between hostile countries and the need for disposition of claims which arose as a result of warfare in the Persian Gulf. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: SELECTION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: HISTORICAL/ LEGISLATION

**Gold, Stephen** "Justice for Cowards" New Law Journal February 8, 1991 V.141 N.6490 pp. 156(1) A look at consumer complaints and arbitration awards in Britain. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB-GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: CONSUMER

**Goldberg, Stephen B.; Brett, Jeanne M.** "Getting, Spending-and Losing-Power in Dispute Systems Design" Negotiation Journal January, 1991 V.7 N.2 p. 119 This article explores the role of the dispute resolution program designer, based on an actual case, to illustrate the problems inherent in having outside forces, such as a designer, develop a proposal for compromise between factors that may not be in an equal bargaining stance or are not both supportive of involving a designer in the dispute at all. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ 3RD PARTY: NEUTRALITY/ POWER IMBALANCE

**Goldberg, Steven S.; Lynch, Kathleen Kelley** "Reconsidering the Legalization of School Reform: A Case For Implementing Change Through Mediation" Ohio State Journal on Dispute Resolution March 22,

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1991 - Spring V.7 N.2 pp. 199-215 The authors suggest mediation as an efficient method of resolving disputes arising from competing cultures of law and education found in school restructuring. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: EDUCATION

Golvan, George H. "Commercial Arbitration: Law and Practice" (book review) Law Institute Journal November, 1991 V.65 N.11 pp. 1095-1096 This review of the book by Marcus S. Jacobs, states the book provides a comprehensive analysis of the law of commercial arbitration as it applies in Australia utilizing a "considerable range of authority." INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

Gorczyński, Dale M. Insider's Guide to Environmental Negotiation The author presents the players, the strategies, and the tactics used in environmental negotiations. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF AGENTS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ INST NATURE: GOV'T ENTITIES/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING

Gordon, Randolph I. "A Meditation on Mediation" Washington State Bar News April, 1991 V.45 N.4 pp. 17(5) This article looks at mediation through the use of cases and analogies. The article sets out what the author believes are the advantages of mediation to the individual person. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: IND ATTY REVIEW

Goriely, Tamara "How Well Do Consumer Arbitration Schemes Work?" New Law Journal April 19, 1991 V.141 N.6500 pp. 535(2) Consumer

arbitration schemes in Great Britain do not seem to be working as well as most thought. The main problem is that consumers are not convinced that they are equitable.

ARB: BINDING ARB- GENERAL/ SUBJ  
MATTER: CONSUMER/ TYPE OF SOURCE: CASE  
STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

**Gradwohl, John M.** "Arbitrability in Nebraska" Nebraska Law Review September 22, 1991 - Summer V.70 N.3 pp. 381-411 The author analyzes the applicability of Nebraska and federal rules as they relate to the enforceability of agreements containing arbitration clauses made in Nebraska.

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL  
REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF  
SOURCE: CASE STUDY/RESEARCH REPORT

**Grayson, Edward** "Sporting Arbitrations" New Law Journal May 3, 1991 V.141 N.6502 pp. 598(1) The author proposes an International Court of Arbitration for resolving the many problems that arise between private regulatory organizations, which play a public role, and participants.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/  
ARB: SELECTION OF ARBITRATOR/ ARB: PRIVATE JUDGING/  
INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER:  
SPORTS & ENTERTAINMENT

**Greco, Susan** "We Can Work It Out" Publishing Company Inc. November, 1991 p. 185 This article takes a brief look at informal grievance procedures within the employee-manager relationship such as a full fledged debate about employment issues in a private room called "the tower" and other problem solving tactics using mediators and ombudspersons.

MED: RELATED PROCESSES-GENERAL/ SUBJ  
MATTER: EMPLOYMENT (NON-UNIONS)/ OMBUDSPERSON/  
SELECTION OF APPROPRIATE PROCESS

**Gregory, Robert R.** " Arbitration: It's Mandatory But It Ain't Fair" Securities Regulation Law Journal June 22, 1991 - Summer V.19 N.2 pp. 181-188 Robert Gregory's article voices concerns over mandated arbitration in securities regulation, particularly the increases in caseload and complex, specialized areas of claims. He offers suggestions to improve the current practices including a review of procedures involving remedies, discovery, and opportunity for appeal.

ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL  
REVIEW/ SUBJ MATTER: SECURITIES/ REQUIREMENTS:  
MANDATE TO USE

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**Grenig, Jay E.** " The Removal of Work From Bargaining Unit Employees: The Supreme Court, the Board, and Arbitrators" Willamette Law Review June 22, 1991 - Summer V.27 N.3 pp. 595-611 The author compares and contrasts the approaches that the Supreme Court, the National Labor Relations Board, and labor arbitrators have taken when confronted with the problem of work transferred from the bargaining unit. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: HISTORICAL

**Grigera Naon, Horacio A.** " Arbitration in Latin America: Overcoming Traditional Hostility" (An Update) University of Miami Inter-American Law Review March 22, 1991 - Spring-Summer V.22 N.2-3 pp. 203-257 The author examines arbitration in Latin America and the recent legislative changes aimed at broadening its scope in Latin American countries. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: STATUTORY OR RULES

**Grillo, Trina** " The Mediation Alternative: Process Dangers for Women" Yale Law Journal May, 1991 V.100 N.6 pp. 1545-1610 This article discusses the use of mandatory mediation to settle divorce disputes focusing on the wife's role in the process and ultimately concludes that mandatory mediation provides neither a more just, nor a more humane alternative to the usual adversarial process. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ REQUIREMENTS: MANDATE TO USE

**Gross, Samuel R.; Syverud, Kent D.** " Getting To No: A Study of Settlement Negotiations And the Selection of Cases for Trial" Michigan Law Review November, 1991 V.90 N.2 pp. 319-393 This is a study examining personal injury and commercial law trials. The authors conclude that success at trial and in pretrial bargaining are contextual and relational, based on the nature of the parties, the parties' attorney fees, and the insurance arrangements. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: MEDICAL MALPRACTICE/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ROLE OF LAWYERS

**Grossman, Mark M.** " Dispute Resolution and Multiemployer Pension Plan Withdrawal Liability" Arbitration Journal June, 1991 V.46 N.2 pp. 41-47 The article explains the history and workings of the Multiemployer Pension Plan Amendments Act of 1980, and reviews the process for entering arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ LEGISLATION

**Guccione, Jean** " Selling Justice; Can Jack Trotter Keep His Stable of Private Judges at the Head of the Pack?" California Lawyer October, 1991 V.11 N.10 pp. 32(6) This article examines John K. Trotter, a former judge on the Fourth District Court of Appeals (California) and Chairman of the Board of Judicial Arbitration and Mediation Services, Inc. The company, which employs retired judges, is the nation's largest private dispute resolution outfits with gross revenues projected to be \$24 million for 1991. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ ARB: PRIVATE JUDGING/ ECONOMIC ADVANTAGES OF ADR

**Guittard, Charles** " Preparing for Mediation and Negotiation" The Practical Lawyer September, 1991 V.37 N.6 pp. 77(7) In this first part of a two-part article, the author determines the tools necessary for a successful mediation and negotiation session. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER

**Guittard, Charles** " Preparing for Mediation and Negotiation" The Practical Lawyer October, 1991 V.37 N.7 pp. 65(14) In this second part of a two-part article, the author describes how to go about the real business of a mediation session: negotiating a settlement. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER

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**Gutowski, Thomas W.** "The Increasing Complexity of Structured Settlement Negotiations" For the Defense June, 1991 V.33 N.6 pp. 29-31 Gutowski suggests ways to avoid delays and misunderstanding by utilizing the annuity broker more fully. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: USE OF AGENTS/ SUBJ MATTER: INSURANCE/ COMPLIANCE ISSUES/ DISPUTE PREVENTION

**Gwartney-Gibbs, Patricia A.; Lach, Denise H.** "Workplace Dispute Resolution and Gender Inequality" Negotiation Journal January, 1991 V.7 N.2 p. 187 The article reveals the results of a case study conducted to determine whether the dispute resolution methodologies utilized in the workplace produce uniform or similar results in disputes involving male claimants as opposed to female claimants. The study concludes that women are generally discouraged from pursuing formal dispute resolution channels and therefore are more likely to change employment to avoid or terminate workplace disputes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS/ ORGANIZATION POLICIES AND RULES/ POWER IMBALANCE

**Hackett, Terry** "Sixth Circuit Pre-Argument Conference Program Helps Resolve Disputes" Judicature August, 1991 V.75 N.2 p. 107 This article documents the success of the Sixth Circuit in resolving appeals prior to oral argument through use of a pre-argument conference program.

INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS

**Haiven, Larry** "Past Practice and Custom and Practice: 'Adjustment' and Industrial Conflict in North American and the United Kingdom" Comparative Labor Law Journal March 22, 1991 V.12 N.3 pp. 300-334 A comparative study of the impact of dispute resolution methods, at the workplace level, is conducted. The study concludes that North American collective agreements are not as effective as the United Kingdom agreements in addressing worker problems at the production level due to a less effective adjustment process. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ FAIRNESS

**Hale, Claudia L.; Bast, Cathy; Gordon, Betsy** "Communication Within a Dispute Mediation: Interactants' Perceptions of the Process"

**The International Journal of Conflict Management** April, 1991 V.2 N.2 pp. 139-158 The intent of the research analyzed in this article is to contribute to what needs to be a growing body of knowledge concerning disputant perceptions of their involvement in the process of mediation and their reactions to the communications which occur. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS

**Haley, John O. " Dispute Resolution in Japan: Lessons in Autonomy" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 443-453** The author suggests that the dispute resolution process in Japan can provide useful insights for the U.S. regarding formal and informal processes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Hamilton, Arthur; Veglahn, Pater A. " Public Policy Exceptions to Arbitration Awards" Labor Law Journal June, 1991 V.42 N.6 pp. 366-370** The authors argue that the United States Supreme Court seems to look favorably on challenges to arbitration decisions based on public policy grounds. ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: PUBLIC POLICY

**Hanlon, Michelle L.D. " The Japan Commercial Arbitration Association: Arbitration With the Flavor of Conciliation" Law and Policy in International Business June 22, 1991 - Summer V.22 N.3 pp. 603-626** This Note focuses on the rules and practices of the Japan Commercial Arbitration Association, noting the cultural and procedural differences from the American Arbitration Association. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL/ COMPARISONS: CROSS-CULTURAL

**Hanson, Roger A.; Keillitz, Susan "Arbitration and Case Processing Time: Lessons From Fulton County" The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 203-228** This review of the Georgia Fulton County Superior Court Arbitration Program indicates success in decreasing case processing time and a proclivity for parties to appeal the arbitration award based on the size of award originally sought. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/



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**Hanson, Roger; Keilitz, Susan; Daley, Henry W. K.** "Court-Annexed Arbitration: Lessons From The Field" State Court Journal December 22, 1991 - Fall V.15 N.4 pp. 4(6) This article details the results found in the National Center for State Courts' comparison of the effects of court-annexed arbitration in New Hampshire and Georgia. The authors offer six lessons to help courts decide whether to implement court-annexed arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES

**Harkness, John F., Jr.** "Fee Arbitration System Working Well" Florida Bar Journal February, 1991 V.65 N.2 pp. 10(1) This Note briefly discusses the recommendations of fee-arbitration panels of Florida's local bar associations. MED: RELATED PROCESSES-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

**Harris, Julian** "Mediation - A Funding Disaster" Solicitors Journal April 19, 1991 V.135 N.15 pp. 468(2) Harris notes the lack of funding for mediation programs involving family law in England. MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L

**Harris, Resa L.; Ray, Larry** "What Judges Need to Know About ADR" Judges Journal January, 1991 - Winter V.30 N.1 pp. 30(7) Presented in the form of question and answer, this article explores ADR in a cursory manner so as to give judges an overview of the processes available. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ COURT REFORM/ JUDICIAL PARTICIPATION

**Hartwell, Steven** "Understanding and Dealing With Deception in Legal Negotiation" Ohio State Journal on Dispute Resolution July, 1991 - Spring V.6 N.2 pp. 171-200 This article offers both a theory for academics and practical guidance to practitioners concerning the problems stemming from the use of deception in legal negotiations. NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS

**Hascher, D. T.** "Arbitration in the Soviet Union" (book review) Lloyds Maritime and Commercial Law Quarterly August, 1991 N.3 pp. 414-415 The book reviewed discusses the institutions, treaties, legislation and main features of Soviet arbitration law. Note that in light of recent internal changes, the book may now only be of historical significance. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

**Haskel, Michael A.** "Opening the AMEX Window to Securities Customers Seeking an Independent Arbitral Forum" New York State Bar Journal July, 1991 V.63 N.5 pp. 20(5) The Constitution of the American Stock Exchange provides that a customer may choose the American Arbitration Association rather than arbitration before a securities industry self-regulatory organization. The author endorses this concept and suggests that states enact such appropriate legislation. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ LEGISLATION

**Hatchard, John** "Governmental Accountability, National Development and the Ombudsman: A Commonwealth Perspective" Denning Law Journal January, 1991 - Annual John Hatchard uses the results of a 1991 study of 17 developing nations in the Commonwealth to Study the "Ombudsman's Office". He discusses the structure, operation, jurisdiction, and actual investigations of the Ombudsman office and assesses its success. INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ 3RD PARTY: SELECTION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ OMBUDSPERSON/ ORGANIZATION POLICIES AND RULES/ QUALITY CONTROL

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**Hausmaninger, Christian J.** "The Immunity of Arbitrators" ICSID REVIEW - Foreign Investment Law Journal September 22, 1991 - Fall V.6 N.2 pp. 601-609 This book details the current state of arbitral immunity in 13 different countries and from the perspective of the AAA, ICSID, and GAFTA, which are arbitration institutions. While the different views on the topic are not directly compared, the reviewer did find the essays to provide a thorough background on both civil and criminal liability of domestic and global arbitrators. ARB: SELECTION OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

**Hawkins, Leo; Hudson, Michael** "The ENS Approach to Training Lawyers for ADR" Law Institute Journal January, 1991 V.65 N.1-2 pp. 55-56 This article reports on Effective Negotiation Services, a training and consulting service used to train lawyers and other professionals to properly utilize ADR techniques. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL

**Heinsz, Timothy J.** "Remedies in Arbitration" (book review) Journal of Dispute Resolution March 22, 1991 - Spring 1991 N.1 pp. 193-197 This book review analyzes Professors Hill and Sinicropis' book Remedies in Arbitration and conclude the authors succeed in proffering a book of worth to both practitioners and law students. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ TYPE OF SOURCE: BOOK REVIEW

**Heinze, William F.** "Patent Mediation: The Forgotten Alternative In Dispute Resolution" AIPLA Quarterly Journal June 22, 1991 - Winter V.18 N.4 pp. 333-348 The author articulates the many advantages mediation offers in patent matters over litigation and arbitration. The

author concludes by encouraging attorneys to re-consider mediation as a viable dispute resolution technique.

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**Helm, Bob; Odem, Sue; Wright, Judith** "Publication Patterns in The Early Years: Dispute Resolution in the Psychological Abstracts, 1980-1985" Mediation Quarterly Fall, 1991 V.9 N.1 p. 87 This study found a great increase in the number of dispute resolution articles published in Psychological Abstracts in the mid-1980's, with nearly one-half of the articles dealing with domestic mediation. MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Hensler, Deborah R.** "Science in the Court: Is There a Role for Alternative Dispute Resolution?" Law and Contemporary Problems June 22, 1991 - Summer V.54 N.3 pp. 171-193 This article analyzes whether ADR methods can adequately resolve procedural difficulties in medical malpractice, products liability, and toxic tort litigation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ SUBJ MATTER: TOXIC TORTS/ SUBJ MATTER: OTHER TORTS

**Hervatin, Lydia A.** "Predispute Arbitration Agreements in Securities Disputes: Speedy Justice or Just Speed?" Loyola of Los Angeles Law Review April, 1991 V.24 N.3 pp. 757-807 The author discusses the enforceability of predispute arbitration agreements between stockbrokers and public customers by examining their historical background. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES

**Hess, Cletus C.** "To Disclose or Not to Disclose: The Relationship Between Confidentiality in Mediation and the Model Rules of Professional Conduct" Dickinson Law Review March 22, 1991 - Spring V.95 N.3 pp. 601-624 This comment explores the conflict between a lawyer's duty to disclose lawyer misconduct under the Model Rules of Professional Conduct, and a lawyer's duty to maintain the confidentiality of disclosed

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information in a mediation process. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: REP OF A CLIENT DURING PROCESS/ CONFIDENTIALITY/ ROLE OF LAWYERS

Higgins, Coleen C. "Interim Measures in Transnational Maritime Arbitration" Tulane Law Review June, 1991 V.65 N.6 pp. 1519-1546 This article explores the question of whether involving national courts in interim measures undermines or enhances the effectiveness of arbitration.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ JUDICIAL PARTICIPATION/ PROVISIONAL REMEDIES

Hill, Marvin F., Jr.; Sinicropi, Anthony V. "Improving the Arbitration Process: A Primer for Advocates" Willamette Law Review June 22, 1991 - Summer V.27 N.3 pp. 463-511 This article serves as a guideline for lawyers who will be participating in the labor arbitration process; however, many of the principles are applicable outside the labor context as well.

ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: CLIENT REP/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Hill, Marvin F., Jr.; Sinicropi, Anthony V. Remedies in Arbitration This book focuses on the remedies available in labor arbitration. The book provides comprehensive coverage of this subject by concentrating on three major areas that are relevant to labor arbitration: sources of remedial authority; remedies in discharge and disciplinary cases; and remedies in nondisciplinary cases.

ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

Hill, Marvin F., Jr.; Wright, James A. "Employee Refusals to Cooperate in Internal Investigations: 'Into the Woods' With Employers, Courts, and Labor Arbitrators" Missouri Law Review September 22, 1991 - Fall V.56 N.4 pp. 869-929 The article looks at what happens when an employee elects not to cooperate in a legitimate investigation by

the employer. The authors conclude that a public sector employee enjoys constitutional protections that are not afforded a private sector employee.

ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Hill, Marvin F., Jr.; DeLacenserie, Emily** "Interest Criteria in Fact-Finding and Arbitration: Evidentiary and Substantive Considerations" Marquette Law Review March 22, 1991 - Spring-Summer V.74 N.3-4 pp. 399-449 The author discusses the major problems in fact-finding under statutes mandating arbitration of interest disputes in the public sector, and offers policy guidelines for advocates and arbitrators. NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ PROVISIONAL REMEDIES/ ROLE OF LAWYERS

**Hinchey, John W.** "Yes, We Do Need Special Rules for Complex Construction Cases!" Construction Lawyer August, 1991 V.11 N.3 pp. 1(8) Hinchey argues that complex construction cases require a reforming of the arbitration process so as to adopt aspects of litigation procedure. ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: CONSTRUCTION/ REQUIREMENTS: MANDATE TO USE/ SUBPOENA AND DISCOVERY

**Hodapp, Paul F.** "The U.S. Supreme Court Rules on Duty to Arbitrate Post-Contract Grievances" Labor Law Journal December, 1991 V.42 N.12 pp. 827-289 The author examines the United States Supreme Court's decision in NLRB v. Litton Financial Printing Division, where the court held that post-contract grievances can only be arbitrated if such arbitration is provided for in the contract. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ AGREEMENT ON PROCEDURE

**Hoellering, Michael F.** "International Arbitration in Switzerland" (book review) American Journal of International Law April, 1991 V.85 N.2 pp. 424-426 This review of International Arbitration in Switzerland, by Andreas Bicher and Pierre-Yves Tschanz, is highly favorable, and

provides an excellent synopsis as it goes through the book chapter by chapter.

NON-BINDING RECOMMENDATION PROC- EARLY  
NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL  
DE NOVO/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING  
AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF  
ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF  
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**Hoellering, Michael F.** "Interim Measures and Arbitration: The Situation in the United States" Arbitration Journal June, 1991 V.46 N.2 pp. 22-27 This article examines the use and availability of interim measures of protection as an aid to arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: MARITIME/ JUDICIAL PARTICIPATION/ PROVISIONAL REMEDIES

**Hoellering, Michael F.** "The New International Arbitration Rules of the American Arbitration Association" Private Investors Abroad-Problems and Solutions in International Business January, 1991 - Annual pp. 12-1(29) This article thoroughly explains the new features of the international arbitration rules section by section. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: INT'L/ CONFIDENTIALITY

**Hoffman, Peter Toll** "Valuation of Cases for Settlement: Theory and Practice" Journal of Dispute Resolution Spring, 1991 N.1 pp. 1-62 The author presents a framework to help inexperienced lawyers determine how much the case is worth, and whether to settle or go to trial. He proposes a four-step process: finding the distribution of verdicts in similar cases; adjusting those numbers to reflect the particular facts of this case; adjusting the revised figure to reflect transaction costs; and setting a value that reflects the client's preferences and values. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS,

**STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG:  
EVAL OF OPTIONS AND OFFERS**

**Hogan, Michael R.** "Judicial Settlement Conferences: Empowering the Parties to Decide Through Negotiation" Willamette Law Review March 22, 1991 - Summer V.27 N.3 pp. 429-461 The author, a United States Magistrate Judge, argues that the ends of justice are served when a dispute is resolved through a negotiation with judicial intervention, and encourages other judges to take an active role in this respect. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ CONFERENCE PROCEEDINGS/ COURT REFORM/ JUDICIAL PARTICIPATION

**Hogler, Raymond** "How Arbitration Works" (with 1985-87 Supplement) The International Journal of Conflict Management April, 1991 V.2 N.2 p. 162-166 This book provides the reader with a useful tool to lay the groundwork for arbitration in labor-management disputes. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR

**Horne, William** "Keeping White-Collar Prosecutors at Bay; Stephen Kaufman Uses His Credibility with Prosecutors to Fight Off Indictments and Negotiate Pleas for High-Profile White-Collar Clients" American Lawyer April, 1991 V.13 N.3 pp. 92(3) This article looks at one attorney's success in negotiating pleas with federal prosecutors in the area of white collar crime. The article details Kaufman's rise from his early days in a Federal Prosecutor's Office to his eventual opening of a solo practice. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA



**Hornick, Robert N.** "Indonesian Arbitration in Theory and Practice" American Journal of Comparative Law June 2, 1991 - Summer V.39 N.3 pp. 559-597 This article analyzes the use of arbitration in Indonesia. Special attention is given to domestic arbitration, which is under the control of the Indonesian National Arbitration Board, and to the enforceability of foreign arbitral awards in Indonesia. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ ARB: FINAL OFFER ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: RENTAL HOUSING

**House, Luther P., Jr.; Corgan, Brian G.** "No, Don't Inhibit Arbitration With Courtroom 'Due Process'" Construction Lawyer August, 1991 V.11 N.3 pp. 1(7) The authors argue against infusing the arbitration process with rules of civil procedure and opt for voluntary rather than mandatory processes in ADR. ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: CONSTRUCTION/ REQUIREMENTS: CONTRACTUAL CLAUSES/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY

**Hua, Chen** "China and Its Arbitration System in Foreign Trade" University of Detroit Law Review September 6, 1991 V.68 N.4 pp. 457-477 The article provides a general overview of arbitration in China, touching on its history, its practices, and its procedures. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/ ORGANIZATION POLICIES AND RULES

**Hulka, Bryan H.** "Dispelling the Myths of Modern Mediation" Golden Gate University Law Review June 22, 1991 - Summer V.21 N.2 pp. 425-436 This Note advocates mediation for commercial disputes by explaining the concept of mediation and addressing many prejudices of attorneys against mediation. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: COMMERCIAL/ 3RD PARTY: LIABILITY & IMMUNITY/ COMPLIANCE ISSUES/ ORGANIZATION POLICIES AND RULES

**Husband, John M.; Mumaugh, Brian M.** "Arbitration of Employment Disputes After Gilmer" Colorado Lawyer November, 1991 V.20 N.11 pp. 2277(4) Though in Gilmer v. Interstate Johnson Lane Corp., the U.S. Supreme Court upheld an arbitration agreement in an employment contract, it is still not certain that the arbitration of employee discrimination claims will be enforced judicially. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ COURT REFORM

**Irvine, Mori** "Mediation Before the Board of Industrial Insurance Appeals" Washington State Bar News April, 1991 V.45 N.4 pp. 22(3) This article in the Washington State Bar News discusses the use of mediation before the Washington State Board of Industrial Insurance Appeals. The article concludes that the use of mediation has worked well in this area as evidenced by the 1,537 settlements reached. The relief of congestion in the workers compensation system along with the benefits to injured workers are also cited as benefits. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: IND ATTY REVIEW/ INST NATURE: JUSTICE SYSTEM-SPECIAL MASTERS/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: LABOR-DISCRIMINATION

**Iwai, Noruaki** "Alternative Dispute Resolution in Court: The Japanese Experience" Ohio State Journal on Dispute Resolution March 22, 1991 - Spring V.6 N.2 pp. 201-241 The author discusses ADR in Japan and the growth of ADR compared to the U.S. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Jacob, Lynn C.** "Mediating Postdecree Disputes" Mediation Quarterly Spring, 1991 V.8 N.3 p. 171 The author proposes a model procedure for evaluating postdecree cases in order to determine what resolution is best. The model emphasizes the use of individual meetings. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SELECTION OF APPROPRIATE PROCESS

**Jacobius, Arleen Stilbeman** "Camp Kilpatrick: Where Toughs Learn to Mediate" The Los Angeles Daily Journal January 2, 1991 V.104 N.2 pp. B1 This article describes the "fair returns" mediation training program at a California juvenile detention center which encourages peer

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dispute resolution to avoid gang fights. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ MED: DRAFTING SETTLEMENT AGREEMENTS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: EDUCATION/ 3RD PARTY: TRAINING/ TEACHING

**Jacobs, Deborah L.** "To Rein in Litigation Costs, Try Mediation and Arbitration" American Banker March 5, 1991 V.156 N.40 pp. 7(1) This article discusses the use of mediation and arbitration by banks. The article looks at the savings in time and costs that result from such a case but concludes with a warning that mediation and arbitration are not applicable in all situations. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO

**Jacobs, Marcus S.** "Judicial Review of Awards Under Australia's Model Uniform Law" The American Review of International Arbitration 1991 V.2 N.2 pp. 184 The author examines a bill before the New South Wales Parliament which provides that under the model uniform legislation in Australia, an appeal against an arbitration award must either show a manifest error of law on the face of the award or strong evidence that an arbitrator or umpire made an error of law. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

**Jacobson, Stephen H.** "Collective Bargaining in Undemocratic Regimes: Francoist Spain and Contemporary South Africa" Comparative Labor Law Journal January, 1991 - Winter V.12 N.2 pp. 214-233 The author illustrates the effects of collective bargaining processes on the political systems in "undemocratic" regimes - specifically, Franco's Spain and contemporary South Africa. SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

**Jarvis, Robert M.** "Arbitration" Nova Law Review April, 1991 - Spring V.15 N.2-3 pp. 923-932 The author critiques the Florida legislators' decision to not allow arbitrators to award attorney's fees - suggesting that this undermines the confidence of the arbitral process and creates needless work for the courts. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ TYPE OF SOURCE: BOOK REVIEW/ FISS

**Jefferies, John** "Structured Settlement Security: Reality or Facade?" Trial August, 1991 V.27 N.8 pp. 26(4) The author argues that the evaluation of the financial security of the payee is a crucial part of accepting a structured settlement. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

**Jeffries, W. P.** "Alternative Dispute Resolution: The Advantages and Disadvantages from a Legal Viewpoint" New Zealand Law Journal May, 1991 pp. 156-159 This article provides an overview of dispute resolution processes in New Zealand with a focus on the interaction between the court system and ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ COURT REFORM/ JUDICIAL PARTICIPATION

**Jennings, Ken; Kare, Dilip D.; Goela, Amit** "An Analysis of Arbitration Decisions in Employee Theft Cases" Labor Law Journal March, 1991 V.42 N.3 pp. 160-167 Arbitrators analyzing employee theft cases will often overturn management decisions of discharge due to lack of "just cause." ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Jennings, Marianne Moody** "Perils of Business Practice: Here Are 10 Preventive Strategies to Resolve Disputes, Avoid Litigation" Preventive Law Reporter September, 1991 V.10 N.3 pp. 3(8) The author suggests that effective ADR may result in more disputes, errors, ineffectiveness and lack of quality control, and then suggests and explains different preventive

strategies that can save money and alleviate these problems, including legal audits, employee feedback, background checks, and monitoring information release. SUBJ MATTER: COMMERCIAL/ DISPUTE PREVENTION/ ROLE OF LAWYERS

Jennings, Sharon A. "Court-Annexed Arbitration and Settlement Pressure: A Push Towards Efficient Dispute Resolution or 'Second Class' Justice?" Ohio State Journal on Dispute Resolution March 22, 1991 - Spring V.6 N.2 pp. 313-332 This Note explores the boundaries between acceptable pressure and coercion in court-annexed arbitrations by referring to the policies underlying such procedures. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ INST NATURE: GENERAL

Jerry, Robert H., II; Robinson, Reginald L. "Statutory Prohibitions on the Negotiation of Insurance Agent Commissions: Substantive Due Process Review Under State Constitutions" Ohio State Law Journal January, 1991 V.51 N.4 pp. 773-822 This article identifies two distinct models of state substantive due process analysis and applies them to state anti-rebate statutes affecting insurance agents, who negotiate a portion of their commission as a rebate to potential customers. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: USE OF AGENTS/ SUBJ MATTER: INSURANCE

Johnson, India "Arbitrators' Views on Handling Construction Cases" Arbitration Journal December, 1991 V.46 N.4 pp. 8-11 Examining a survey of arbitrators circulated by the Atlanta office of the American Arbitration Association, the article offers insights into the arbitration process and points out the importance of the dialogue the survey created. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSTRUCTION/ ROLE OF LAWYERS

Johnston, Bryan M.; Krupin, Paul J. "The 1989 Pacific Northwest Timber Compromise: An Environmental Dispute Resolution Case Study of a Successful Battle that May Have Lost the War" Willamette Law Review June 22, 1991 - Summer V.27 N.3 pp. 613-643 The authors

describe the controversy surrounding the Pacific Northwest Timber Summit and how the faulty environmental dispute resolution process in this case should be used to inform and improve future attempts in this context.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: NEUTRALITY/ LEGISLATION

**Johnston, J. Bradley** "The Bankruptcy Bargain" American Bankruptcy Law Journal February, 1991 V.65 N.2 pp. 213-309 This article examines bargaining in the context of bankruptcy proceedings and analyzes how negotiations occur in a Chapter 11 setting. The focus of the article is the substantive and procedural bargaining entitlements given by common law and Chapter 11, and how these entitlements effect negotiations under Chapter 11. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ NEG: USE OF AGENTS/ SUBJ MATTER: GENERAL

**Joseph, David** "The Law and Practice of Commercial Arbitration in England" (book review) Lloyds Maritime and Commercial Law Quarterly February, 1991 N.1 pp. 132(1) The author reviews The Law and Practice of Commercial Arbitration in England, which he highly recommends for practitioners in the field as a "standard" work. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

**Kane, Mary Kay** "Dispute Resolution in the United States: Concerns and Opportunities in an Era of Globalization of Securities Markets" Hastings International and Comparative Law Review January, 1991 - Winter V.14 N.2 pp. 405-422 The author discusses the features of American Securities litigation both home and abroad and suggests various

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alternative dispute resolution techniques that may be applicable in settling international securities disputes, such as mini-trials, summary jury trials, and appointing special masters. NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SUBJ MATTER: INT'L/ SUBJ MATTER: SECURITIES

Kanner, Gideon "Rent-a-Judges a Result, Not Cause, of Courts' Problems" The Los Angeles Daily Journal May 15, 1991 V.104 N.97 p. 7 The author responds to Judge Rudolph Loncke's article by stating that the upsurge in rent-a-judging comes in response to the negative perceptions involved with costly litigation as opposed to Loncke's suggestion that judges view such "private judging" as a pure financial opportunity. INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Kapp, C. Terrence "Divorce Mediation: What You Should Tell Your Clients" Compleat Lawyer September 22, 1991 - Fall V.8 N.4 pp. 38(4) This article provides divorce attorneys with a practical look at the pros and cons of embarking upon a divorce mediation hearing as well as outlining the procedures involved. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Karnes, Frances A.; Marquardt, Ronald G. Gifted Children and the Law - Mediation Due Process and Court Cases After reviewing statutory and case law involving gifted students, this book outlines methods for preventing gifted education disputes from reaching the courts. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: DRAFTING SETTLEMENT AGREEMENTS/ SUBJ MATTER: EDUCATION/ 3RD PARTY: SELECTION

Katsoris, Constantine N. "Punitive Damages in Securities Arbitration: The Tower of Babel Revisited" Fordham Urban Law Journal December, 1991 - Summer V.18 N.4 pp. 573-604 The author reviews punitive damages, SEC arbitration, and purative damages in arbitration, concluding that punitive damages in securities case should be permissible if such awards are reviewable, consistent with the reviewability of such awards by

trial courts. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES/ POWER IMBALANCE

**Katz, Marsha; LaVan, Helen** "Arbitrated Public Sector Employees Grievances: Analysis and Implications" Journal of Collective Negotiations in the Public Sector September 22, 1991 - Fall V.20 N.4 pp. 293-305 A comprehensive study of 1,318 public sector grievance arbitration cases in order to identify factors which affect the outcome of interest and grievance arbitration by public employees. ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

**Kauffman, Nancy** "The Idea of Expedited Arbitration Two Decades Later" Arbitration Journal September, 1991 V.46 N.3 pp. 34-38 This article discusses expedited arbitration, explaining when it should be used and how it should proceed. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ ECONOMIC ADVANTAGES OF ADR

**Kaufman, Charles** "Want to See a Match Burn Twice? Fee Dispute Resolution Committees Keep Clients and Lawyers From Feeling 'Burned'" Texas Bar Journal June, 1991 V.54 N.6 pp. 584(3) The author describes the fee dispute resolution mechanism being used by some local bar associations and grievance committees in Texas to resolve fee disputes between attorney and client. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: BINDING ARB- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ ECONOMIC ADVANTAGES OF ADR

**Kaufman, Irving R.** "Reform for a System in Crisis: Alternative Dispute Resolution in the Federal Courts" Fordham Law Review January 31, 1991 V.59 N.1 pp. 1-38 Judge Kaufman discusses the problem of overburdened courts as well as some of the causes, and explores the success of several alternative dispute techniques in the courthouse, their constitutionality, and their impact on traditional third party players such as the press. MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: MANDATORY, COURT-ANNEXED- TRIAL



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Kavass, Igor I. "International Arbitration" (book review) International Journal of Legal Information March 22, 1991 - Spring V.19 N.1 pp. 66-68 A favorable review of four books on international commercial arbitration which cover procedural aspects of arbitration, the role of the International Chamber of Commerce (ICC), case notes, arbitral awards, and a bibliography. ARB: PREPARATION/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

Kavass, Igor I. "International Chamber of Commerce Arbitration" (book review) International Journal of Legal Information March 22, 1991 - Spring V.19 N.1 pp. 66-68 The author reviews the book International Chamber of Commerce Arbitration by Craig, Park, and Paulsson and concludes that it will remain an authoritative source of information about procedures and practices of ICC arbitration as long as the ICC remains a popular forum. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ ORGANIZATION POLICIES AND RULES

Kavass, Igor I. "International Commercial Arbitration and the Courts: A Source Guide" (book review) International Journal of Legal Information March 22, 1991 - Spring V.19 N.1 pp. 68(1) The author reviews Commentary on the Uncitral Model Law on International Commercial Arbitration by Aron Broches which contains an article-by-article annotation of the Model Law with explanations and comments by the author. The reviewer concludes that the author's comments and explanations as well as the absence of research aids in the book detract from the overall usefulness of the book. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

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**Kelly, Joan B.** "Mediated and Adversarial Divorce Resolution Processes; A Comparison of Post-Divorce Outcomes" Family Law September, 1991 N.21 pp. 382(7) The author discusses studies in California which have shown that voluntary comprehensive mediation conducted by trained professionals are more effective than traditional adversarial divorce processes. MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Kelly, Joan B.** "Parent Interaction After Divorce: Comparison of Mediated and Adversarial Divorce Processes" Behavioral Sciences & the Law September 22, 1991 - Autumn V.9 N.4 pp. 387-398 The article details a case study involving post-divorce effects of utilizing divorce mediation, in comparison to the traditional adversarial approach. The author concludes that initial positive benefits resulting from mediation generally disappeared after two years. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Kelly, Laurence** "Manitoba's Experience With Final Offer Selection" Labor Law Journal June, 1991 V.42 N.6 pp. 381-384 The author examines the installation and later repeal of Final Offer Selection in the Canadian province of Manitoba. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

**Kelly, Randall M.** "The Burden of Proof in Criminal Offenses or 'Moral Turpitude' Cases" Arbitration Journal December, 1991 V.46 N.4 pp. 45-48 The article argues that the use of the criminal standard for burden of proof is inappropriate for labor arbitration. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

**Kennedy, Kevin** "International Commercial Arbitration Legislation in the State of Michigan: A Proposal" Detroit College of Law Review August, 1991 - Winter 1990 N.4 pp. 867-928 The article suggests ways in

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which Michigan should approach international disputes, in light of both the U.S.- Canada free trade agreement and cases involving international ADR.

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Kerzner, Theodor "Pre-Award Interest: The Arbitrator's Dilemma" Advocates' Quarterly June 22, 1991 V.13 N.1 pp. 1-11 This article examines the difficulties surrounding the arbitrator's decision on whether or not to award interest in commercial arbitrations. The author suggests that the problem should be solved by the legislature by amendment to the Arbitration Act. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

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**Koa, Christopher M.** "The International Bank for Reconstruction and Development and Dispute Resolution: Conciliating Arbitrating with China Through the International Centre for Settlement of Investment Disputes" New York University Journal of International Law and Politics September 22, 1991 - Fall V.24 N.1 pp. 439-501 The author explores the role the ICSID may play in the future with respect to commercial arbitration with China. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: CULTURAL CONSIDERATIONS/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: STATUTORY OR RULES

**Kolkey, Daniel M.** "International Arbitration in East-West Trade" Whittier Law Review June 22, 1991 - Summer V.12 N.2 pp. 245-258 This article examines the use of arbitration to settle disputes between Eastern & Western European parties in a commercial setting. The author argues that arbitration is the preferred method for settlement due to the uncertainty of litigation in Eastern Europe and the difficulties in enforcing a judgment against an Eastern European party. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FINAL OFFER ARB/ ARB: PRIVATE JUDGING/ SUBJ MATTER: RENTAL HOUSING/ SUBJ MATTER: GENERAL

**Korn, Jane Byeff** "Changing Our Perspective on Arbitration: A Traditional and A Feminist View" University of Illinois Law Review January, 1991 - Winter 1991 N.1 pp. 67-106 The author examines the courts' view of arbitration through Supreme Court decisions and applies a feminist theory to the non-gender question of the Court's current view. SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

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**Kupperman, Stephen H.; Freeman, George C., III** "Selected Topics in Securities Arbitration: Rule 15c2-2, Fraud, Duress, Unconscionability, Waiver, Class Arbitration, Punitive Damages, Rights of Review, and Attorneys' Fees and Costs" Tulane Law Review June, 1991 V.65 N.6 pp. 1547-1632 A discussion of various topics in securities arbitration and arbitration in general. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: SECURITIES/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ JUDICIAL PARTICIPATION

**La Rue, Homer C.** "The Ethics of Disclosures by Arbitrators of Color: Have The Rules Changed?" Labor Law Journal September, 1991 V.42 N.9 pp. 619-634 The author examines whether race is a factor in the request of an arbitrator to withdraw once disclosure of impartiality has been made. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ ARB: PRIVATE JUDGING/ SUBJ MATTER: LABOR-DISCRIMINATION/ 3RD PARTY: CONFLICT OF INTEREST/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE

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pp. 549-572 The article evaluates the success and failures of a semi-mandatory judicial settlement conference technique introduced in the Circuit Courts of Multnomah County, Oregon. MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION

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**Lawton, R. Hanson** "ADR As An Alternative to Postponement" Judges Journal January, 1991 - Winter V.30 N.1 pp. 35(4) This article explores the ways in which ADR can be used to modernize the legal system so as to alleviate the impairment of justice caused by growth and delay and other factors. MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ JUDICIAL PARTICIPATION

**Le Pera, Sergio** "Where To Vacate and How to Resist Enforcement of Foreign Arbitral Awards: International Standard Electric Corporation v. Bidas Sociedad Anonima Petrolera, Industrial y Comercial" The American Review of International Arbitration 1991 V.2 N.1 p. 48 The author discusses the named case, in which the judge addressed jurisdictional issues and other matters of interest regarding enforcement of foreign arbitral awards. ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

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**Levin, Jayne** "Industry Group Proposes Change in Arbitration; Would Require Class-Action Suits to Go to Court" Investment Dealer's Digest July 15, 1991 p. 8 A report on the Securities Industry Conference on Arbitration drafting a new rule that requires class-action suits brought against brokerage firms to go to court rather than arbitration. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ SETTLEMENT: AUTHORITY/ REQUIREMENTS: STATUTORY OR RULES/ CONFERENCE PROCEEDINGS/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

**Lieblich, William C.** "Determining the Economic Value of Expropriated Income-Producing Property in International Arbitrations" Journal of International Arbitration March, 1991 V.8 N.1 pp. 59-80 This article addresses the question of the methods that should be employed to value expropriated income-producing property. It focuses on the theoretical basis for these methods and on their appropriateness, from an economic and financial standpoint, in achieving their declared objections. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Lipton, David A.** "Generating Precedent in Securities Industry Arbitration" Securities Regulation Law Journal January 4, 1992 N.1 p. 26-44 The author charts the progress made by the securities industry's dispute resolution system. Although it has moved from judicial litigation to a system that depends almost exclusively on arbitration, the present system does not provide a means to generate case precedent. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING



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**Loncke, Ruldolph** "The Trouble With Rent-A-Judging; The Thriving Private System is Eroding Faith in the Public Courts" The Los Angeles Daily Journal April 4, 1991 V.104 N.68 p. 6 The author explores problems he foresees with the private renting of judges in public sector disputes, including potential conflicts of interest and excessive monetary incentives. INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: CONFLICT OF INTEREST/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

**Lord, Mary** "How Nabisco Solved its Labor Problem" U.S. News & World Report May 20, 1991 V.110 N.19 p. 60 The article explains how Nabisco utilized the Federal Mediation and Conciliation Service to solve its internal labor disputes. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS

**Lowenfeld, Andreas F.** "The Immunity of Arbitrators" Arbitration Journal June, 1991 V.46 N.2 pp. 55-59 The article reviews a book discussing and comparing the arbitrator's role in the dispute resolution process and the existence or non-existence of arbitrator immunity.

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**Lowenfeld, Andreas F.** "Binational Dispute Settlement Under Chapter 19 of the Canada-United States Free Trade Agreement: An Interim Appraisal" New York University Journal of International Law and Politics September 22, 1991 - Fall V.24 N.1 pp. 269-339 The author examines disputes that have been resolved through mediation and arbitration between the U.S. and Canada arising under Chapter 19 of the Canada-United States Free Trade Agreement and concludes with a few recommendations.

MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE

**Lubic, Robert Bennett** "International Commercial Arbitration in Japan: Background and Suggestions" The American Review of International Arbitration 1991 V.2 N.1 p. 87 This article explores the limited use of international commercial arbitration by Japanese-based concerns. The history of Japanese contract law and comparisons with other Asian countries are discussed along with suggestions for contract clauses designed to make arbitration more appealing to Japanese companies.

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**Ly, Filip De** "The Place of Arbitration in the Conflict of Laws of International Commercial Arbitration: An Exercise in Arbitration Planning" Northwestern Journal of International Law & Business March 22, 1991 - Spring-Summer V.12 N.1 pp. 48-85 The article discusses the selection process for the location of arbitration in light of the conflict of laws issues. The author suggests several factors to determine the most suitable location for an arbitration.  
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**MacCoun, Robert J.** "Unintended Consequences of Court Arbitration: A Cautionary Tale From New Jersey" The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 229-243 The author argues that New Jersey Automobile Arbitration program serves as an alternative to unilateral settlement and not to trial.  
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**Macduff, Ian** "Conflict Management: A New Zealand Handbook" (book review) Victoria University of Wellington Law Review May, 1991 V.21 N.2 pp. 218-220 This review of Frank Sligo's Conflict Management: A New Zealand Handbook, suggests that the book's most useful purpose is as a guide to those people in the business of dealing with conflict, due to its brevity and simplicity.  
TYPE OF SOURCE: BOOK REVIEW/ AGREEMENT ON PROCEDURE/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

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ARB: MANDATORY,  
COURT-ANNEXED- GENERAL/ ARB: MANDATORY,  
COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY,  
COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB:  
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RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION

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**Mank, Bradford C.** "The Two-Headed Dragon of Siting and Cleaning up Hazardous Waste Dumps: Can Economic Incentives or Mediation Slay the Monster?" Boston College Environmental Affairs Law Review December, 1991 - Winter V.19 N.2 pp. 239-285 The author argues that neither economic incentives nor mediation have been successful in tackling issues in the area of hazardous waste. He goes on to recommend a new approach to improve the handling of the problem. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT/ ECONOMIC ADVANTAGES OF ADR

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**Marmo, Michael** "Work Versus Family Obligations: An Arbitral Perspective" Arbitration Journal September, 1991 V.46 N.3 pp. 14-28 The author discusses the conflict between job requirements and family obligations, and how the language of a collective bargaining agreement can affect an arbitrator's ruling on the conflict. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY

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**Martin, Jennifer** "A Prescription to Expedite Hazardous Waste Cleanups: De Minimis Settlements and ADR" (Symposium: Commercial Alternative Dispute Resolution) Golden Gate University Law Review June 22, 1991 - Summer V.21 N.2 pp. 361-386 The author proposes a way for small businesses to resolve disputes concerning hazardous waste sites; superfund. SUBJ MATTER: COMMUNITY/ SUBJ MATTER:

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settle disputes. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: NEGOTIATED RULE-MAKING/ MED: PUBLIC POLICY DIALOGUE/ MED: IND ATTY REVIEW/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS

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**McCarry, Greg J.** "Amicable Agreements, Equitable Awards and Industrial Disorder" Sydney Law Review September, 1991 V.13 N.3 pp. 299-334 The article presents an historical overview of the development of Australia's federal apparatus for conciliating and arbitrating industrial disputes from 1903 to date, emphasizing the general absence in Australian law of the right to strike. SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: REGULATORY/ COMPARISONS: HISTORICAL

**McCarthy, Peter; Simpson, Bob; Colyoe, Judy; Walker, Janet** "Family Mediation in Britain: A Comparison of Service Types" Mediation Quarterly Summer, 1991 V.8 N.4 p. 305 The authors compare different types of family issue mediation in Britain, focusing on measuring effectiveness using non-economic criteria, and they conclude that mediation away from the court setting is most effective. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

**McClain, Anne J.** "Bankruptcy Code Section 1113 And The Simple Rejection of Collective Bargaining Agreements: Labor Loses Again" Georgetown Law Journal October, 1991 V.80 N.1 pp. 191-210 The author analyzes the competing philosophies of bankruptcy and labor law, the legislative history of Section 1113, and the court's interpretation of Section 1113 to conclude that the court's emphasis on the "necessity requirement" has stripped Section 1113 of its intended protection of



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labor's interest in collective bargaining agreements. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ JUDICIAL PARTICIPATION/ LEGISLATION

**McDonald, Graham** "The Australian Banking Industry Ombudsman - Can a Level Playing Field be Created?" Law Institute Journal March, 1991 V.65 N.3 pp. 190-191 Australian Banks have created the Australian Banking Industry Ombudsmen, the first practical dispute resolution forum for the industry. The author recommends inquisitorial, rather than adversarial, fact-finding to make the process more fair to consumers. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSUMER/ POWER IMBALANCE

**McEwen, Craig A.** "Pursuing Problem-Solving or Predictive Settlement" Florida State University Law Review June 22, 1991 - Summer V.19 N.1 pp. 77-88 The author differentiates ADR processes from one another and examines the issue of whether ADR has been co-opted by the legal establishment's adversary culture. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ AGREEMENT ON PROCEDURE/ ROLE OF LAWYERS

**McGuire, Catherine; Love, Robert** "Dispute Resolution Between Investors and Broker-Dealers in the United States Securities Markets" Hastings International and Comparative Law Review January, 1991 - Winter V.14 N.2 pp. 431-461 This article discusses the use of ADR in the U.S. Securities Markets, specifically the use of self-regulating organizations (SRO's), which are monitored by the SEC and must comply with rules developed by the SEC and the Securities Industry Conference on Arbitration (SICA). The authors also mention the interplay between the arbitration and disciplinary functions of SRO's, new arbitration rules, and future SICA projects. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: SECURITIES

**McHardy, David** "The New Ground for Divorce; An Early View From a Practitioner" Family Law January, 1991 V.21 pp. 9-12 This article reflects on the impact of the British Law Commission's The Ground For Divorce (1990), noting that the quality of divorce proceedings could be

enhanced by the utilization of alternative methods of resolution. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

**McIver, John P.; Keilitz, Susan** "An Introduction" The Justice System Journal March, 1991 - Fall V.14 N.2 pp. 123-132 Through tables, this article introduces court-annexed arbitration as it is used in the fifty states.

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**McKenna, Ian B.** "Without Recourse to the Grievance Procedure: The Alberta Courts Invite More Legal Problems" Alberta Law Review June 22, 1991 - Summer V.29 N.4 pp. 934-940 The author examines a number of recent court decisions involving employee grievance procedures, and expresses concern about attempts by the judiciary to deny employees access to grievance procedures.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ JUDICIAL PARTICIPATION/ POWER IMBALANCE/ SELECTION OF APPROPRIATE PROCESS

**McKinney, Joseph A.** "Dispute Settlement Under the U.S.-Canada Free Trade Agreement" Journal of World Trade December, 1991 V.25 N.6 pp. 117-130 This article examines the institutional provisions and antidumping and countervailing duty provisions of the U.S. - Canada Free Trade Agreement. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L

**McKinney, Joseph A.** "Dispute Settlement Under the U.S.-Canada Free Trade Agreement" Journal of International Arbitration December, 1991 V.8 N.4 pp. 89-102 This article discusses the dispute settlement mechanism of the U.S.-Canada Free Trade Agreement as an instrument for avoiding and dealing with trade disputes which have at times complicated the political relationship between the two countries. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: GOV'T/ LEGISLATION

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**McRobert, Christopher** "Mediation in Local Courts - An Alternative to Contested Hearing" Australian Dispute Resolution Journal May, 1991 V.2 N.2 pp. 94-98 The article presents reasons why mediation should be in local courts by discussing a pilot program implemented in New South Wales. The report mentions situations not suitable for mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OPENING AND SETTING GUIDELINES/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM-SMALL CLAIMS COURTS/ SUBJ MATTER: COMMUNITY/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ JUDICIAL PARTICIPATION/ POWER IMBALANCE/ SELECTION OF APPROPRIATE PROCESS

**McWilliams, Joan** "Alternative Disputes Resolution: Restoring the Balance" Colorado Lawyer June, 1991 V.20 N.6 pp. 1087(3) Through statutes, case law, and actions by the bar, alternative dispute resolution has emerged as a part of the legal system. The author provides guidelines to ensure the most beneficial use of ADR methods for practicing attorneys. NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ ROLE OF LAWYERS

**Meason, James E.; Smith, Alison G.** "Non-Lawyers in International Commercial Arbitration: Gathering Splinters on the Bench" Northwestern Journal of International Law & Business March 22, 1991 - Spring-Summer V.12 N.1 pp. 24-47 The article suggests that non-lawyers with expertise in the area relevant to the arbitration proceeding may be just as capable as lawyers in serving the role of the arbitrator. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: RENTAL HOUSING

**Menkel-Meadow, Carrie** "Pursuing Settlement in an Adversary Culture: A Tale of Innovation Co-Opted or 'The Law of ADR'." Florida State University Law Review May 30, 1991 N.4 pp. 1-46 The author discusses the development of ADR, the conflicting purposes behind the movement, and the implications of its institutionalization and legalization.

SUBJ MATTER: GENERAL/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE/ COURT REFORM/ JUDICIAL PARTICIPATION/ ORGANIZATION POLICIES AND RULES

**Menry, James F.** "No Longer a Rarity. Judicial ADR is Preparing For Great Growth - But Much Care is Needed" Alternatives to the High Cost of Litigation. July, 1991 V.9 N.7 pp. 95 This article discusses the increased use of ADR over the past six years, pointing out some successes and some dangers.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ FISS

**Menzel, Kent E.** "Judging the Fairness of Mediation: A Critical Framework" Mediation Quarterly Fall, 1991 V.9 N:1 p. 3 This article proposes that six factors be examined when assessing the fairness of an agreement.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: NEUTRALITY/ FAIRNESS

**Merrills, J. G.** International Dispute Settlement, 2d. Ed. A comprehensive examination of the varying techniques and methods utilized to settle international disputes, including in depth discussions of arbitration, settlement, mediation, negotiation, inquiry and conciliation. The author also surveys the role of the United Nations in dispute settlement, discussing new trends and possible future developments.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL

**Mesch, Debra J.; Dalton, Dan R.** "Workplace Justice Outcomes In The Name of The Union: A Field Assessment" The International Journal of

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Conflict Management 1991 V.2 N.1 (January) pp. 45-54 This is a discussion of employee grievances filed "in the name of the union." It also explores the variables and results of a research sample comparing the success rate of grievances filed by the employee with the grievances filed in the name of the union. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Meschievitz, Catherine S. "Mediation and Medical Malpractice: Problems With Definition and Implementation" Law and Contemporary Problems January, 1991 - Winter V.54 N.1 pp. 195-215 This article examines Wisconsin's required mediation program for medical malpractice claims, analyzing success based on statistical and empirical data. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: OTHER PROF MALPRACTICE

Meyer, William G. "Early Neutral Evaluation - A Pilot Project" Colorado Lawyer January, 1991 V.20 N.1 pp. 29(1) The author reviews Early Neutral Evaluation, a program that helps litigants resolve disputes quicker and cheaper by allowing a neutral party to give an assessment of the positions of the parties and an overall view of the case in the beginning stages of litigation. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: SELECTION/ COURT REFORM/ JUDICIAL PARTICIPATION

Millen, Richard "Putting Alternative Dispute Resolution Into Practice; Effective ADR Requires a Fundamental Shift in Lawyer Thinking" Los Angeles Lawyer February, 1991 V.13 N.11 pp. 18-20 This article discusses ways to integrate ADR into the present adversarial system by altering the mindset of lawyers. SUBJ MATTER: GENERAL/ COURT REFORM/ ROLE OF LAWYERS

Miller, Francis "Terms of Engagement" New Law Journal November 29, 1991 V.141 N.6530 pp. 1633(3) The lack of an arbitrator's terms of engagement may become an issue and a weapon for a reluctant party. The author therefore suggests that arbitrators do not work until both parties have agreed to his/her terms of engagement. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB:

**BINDING ARB- GENERAL/ ARB: FEES AND FUNDING OF  
ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SETTLEMENT:  
ENFORCEMENT OF SETTLEMENT OR AWARD/ DISPUTE  
PREVENTION**

**Miller, Francis** "The Judicial Immunity of Arbitrators" New Law Journal May 10, 1991 V.141 N.6503 pp. 633(3) The Departmental Advisory Committee on Arbitration remains ambivalent on the issue of whether judicial immunity should be granted to arbitrators; the author suggests that arbitrators either exclude liability or take out indemnity insurance. **ARB: MANDATORY, COURT-ANNEXED- GENERAL/  
ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ  
MATTER: OTHER PROF MALPRACTICE**

**Mills, Graeme** "Accreditation of ADR Specialists" Law Institute Journal January, 1991 V.65 N.1-2 pp. 57-58 Accrediting ADR specialists is under consideration in Australia, but would present problems defining the boundaries of the specialty and assessing one's skill at it. Different oral exams could solve the latter problem. **ARB: TRAINING AND  
QUALIFICATIONS OF ARBITRATOR/ 3RD PARTY: TRAINING/  
3RD PARTY: VOLUNTEER OF LAY PERSONS/ QUALITY  
CONTROL/ TEACHING**

**Mills, Miriam K.** Alternative Dispute Resolution in the Public Sector This text reviews alternative dispute resolution in the public sector by focusing on dispute resolution relative to public administration, labor relations, and the environment. **NEG: W/ OR W/O ASSIST OF  
3D-PARTY NEUTRAL- GENERAL/ ARB: BINDING ARB-  
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:  
ENVIRONMENT/ SUBJ MATTER: LABOR-GENERAL/ SUBJ  
MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC  
POLICY**

**Milne, Ann** "Mediation - A Promising Alternative For Family Courts" Juvenile and Family Courts Journal March 22, 1991 - Spring V.42 N.2 pp. 61-74 In addition to discussing the merits of divorce mediation, this article describes how divorce mediation works in practice. **MED:  
RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY  
(DOMESTIC REL)/ 3RD PARTY: SELECTION**

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**Mittenthal, Richard** "Whither Arbitration? Major Changes in the Last Half Century" Arbitration Journal December, 1991 V.46 N.4 pp. 24-32 Examining the history of arbitration over the last few decades, the article suggests that it has followed a model that emulated the court system. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ COMPARISONS: HISTORICAL

**Modjeska, Lee M.** "The Supreme Court and the Duty of Fair Representation" Ohio State Journal on Dispute Resolution September 22, 1991 - Fall V.7 N.1 pp. 1-37 This article reviews the jurisprudential evolution of the duty of fair representation imposed by the Supreme Court and the NLRB in collection bargaining situations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ FAIRNESS

**Moeller, Christopher J.** "Your Forum or Mine? Where to Arbitrate Investor-Broker Securities Claims" Journal of Dispute Resolution March 22, 1991 - Spring N.1 pp. 63-85 The author addresses current problems in securities arbitration concerning protection of customers' interest in arbitration before a fair and efficient forum free from industry bias. The author finds that a single forum for customer grievances ought to be considered. ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: SECURITIES

**Moens, Gabriel** "Commercial Alternative Dispute Resolution" (book review) University of Queensland Law Journal May, 1991 V.16 N.2 pp. 302-303 This article is a review of Maxwell Fulton's Commercial Alternative Dispute Resolution; the review focuses on the book's usefulness to lawyers in advising their clients on alternative dispute resolution methods. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ TEACHING

**Molander, Julia A.** "ADR: No Trendy Panacea for the Ills of Our Court System" The Los Angeles Daily Journal September 30, 1991 V.104 N.194 p. C1 This author strongly believes that ADR should remain a choice and not be forced upon the parties involved in a dispute. She notes that ADR can increase costs and inject bias into proceedings and doesn't want ADR to be "a quick-fix for an ailing judicial system." COURT

**REFORM/ ECONOMIC ADVANTAGES OF ADR/ RELATION TO  
ONGOING LITIGATION/ SELECTION OF APPROPRIATE PROCESS**

**Moore, W. John** "Business Sees Victory in Court Ruling" National Journal July 13, 1991 V.23 N.28 pp. 1751 This article reviews the May 1992 Supreme Court ruling in Gilmer v. Interstate/Johnson Lane Corp., which allows companies to require new employees to arbitrate disputes with management as a condition of being hired. ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: MANDATE TO USE

**Morgan, Allan E.** "ADR: In Search of the Emperor's New Clothes" Golden Gate University Law Review June 22, 1991 - Summer V.21 N.2 pp. 351-360 This essay proposes a structure of ADR for the commercial sector, consistent with that sector's early vision of arbitration. SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ FAIRNESS/ ROLE OF LAWYERS

**Morganroth, Janice; Morganroth, Fred** "Why Winging it Won't Work; Know Your Role as Guardian Ad Litem or Mediator" Family Advocate March 22, 1991 - Spring V.13 N.4 pp. 44(8) This article discusses an attorney's role and duties as a guardian ad litem and a mediator in divorce proceedings. The article also offers specific advice to the mediator on how best to proceed with a divorce mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

**Morishima, Motohiro** "Information Sharing and Collective Bargaining in Japan: Effects on Wage Negotiation" Industrial and Labor Relations Review January, 1991 V.44 N.3 pp. 469(7) The author examines the effects of sharing confidential business information by Japanese firms with their unions and employees through a joint consultation system, and the impact on the process and outcome of wage negotiation. Contrary to a similar United States study that found that information sharing increased labor's bargaining power, the Japanese process resulted in shorter negotiations with lower wage increase demands. SUBJ MATTER:



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LABOR-MANAGEMENT (UNIONS)

**Morrison, Alan B.** "The Role of Litigation and Alternatives Thereto in Consumer Activism" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 381-386 The article examines particular cases in consumer litigation and advises of lessons to be learned about this area of the law. NON-BINDING RECOMMENDATION PROC-  
EARLY NEUTRAL EVAL/ SUBJ MATTER: INT'L/ SUBJ MATTER:  
CONSUMER/ TYPE OF SOURCE: CASE STUDY/RESEARCH  
REPORT/ COMPARISONS: CROSS-CULTURAL

**Morrow, Margaret M.** "Education is the Key to ADR Becoming Accepted Strategem" The Los Angeles Daily Journal September 30, 1991 V.104 N.194 p. C1 Morrow believes that in considering ADR the question to ask is not whether to use it, but which form of ADR is most appropriate for a particular case. She encourages continuing education of lawyers and judges in the field of dispute resolution to further the effective usage of ADR techniques. MED: RELATED  
PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION  
PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC-  
MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-  
SUMMARY JURY TRIAL/ ARB: MANDATORY,  
COURT-ANNEXED- GENERAL

**Morton, James** "Justice Accelerated" New Law Journal May 10, 1991 V.141 N.6503 pp. 632(2) Judicial Arbitration and Mediation Services Inc., an alternative dispute resolution corporation that often hires retired judges as arbitrators and mediators, finds support and success in litigious Southern California. MED: RELATED PROCESSES-GENERAL/  
MED: PRETRIAL CONF/ MED: OPENING AND SETTING  
GUIDELINES/ MED: FEES, FUNDING, AND ADMIN OF  
MEDIATION CENTERS/ ARB: MANDATORY, COURT-ANNEXED-  
FEES & FUNDING/ ARB: BINDING ARB- GENERAL/ ARB: FEES  
AND FUNDING OF ARBITRATOR/ ARB: PRIVATE JUDGING

**Mundis, Daryl A.** "Jacob Timmermans, Carriage of Goods by Sea . . ." (book review) The American Review of International Arbitration 1991 V.2 N.2 p. 239 The author praises the value of Timmermans' work on Maritime Arbitration in the USSR as valuable despite the recent break-up of the USSR, and Mundis gives a brief overview of the subject matter covered in Timmermans' work. ARB: BINDING ARB- GENERAL/

**ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ TYPE OF SOURCE: BOOK REVIEW**

**Murphy, Christopher J.** "Canada-U.S. Free Trade Resolution Dispute Mechanism Penal Procedures: Will They Hold?" The Transnational Lawyer September 2, 1991 - Fall V.4 N.2 pp. 585-621 The author examines the Free Trade Agreement between the United States and Canada, focusing on antidumping and countervailing duty determinations by the two countries and specific changes that should be made in the Agreement. **INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L**

**Myers, James J.** "Could Arbitration be Made a More Effective Method of Resolution of Construction Disputes?" International Business Lawyer June, 1991 V.19 N.6 pp. 313(7) The author evaluates the use of arbitration to resolve construction disputes and concludes that conventional arbitration should be modified to force the parties to deal promptly with the underlying dispute so that it does not become out of proportion to the original controversy. **MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSTRUCTION/ REQUIREMENTS: CONTRACTUAL CLAUSES/ DISPUTE PREVENTION**

**Neilson, William A.W.** "Price Adjustments in Long-Term Supply Contracts: The Saga of the Quintette Coal Arbitration" Canadian Business Law Journal May, 1991 V.18 N.1 pp. 76-94 The author examines Quintette Coal Ltd. v. Nippon Steel Corp. and the decision's impact on arbitration clause agreements in commercial contracts. **ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ COMPARISONS: CROSS-CULTURAL**

**Nelson, Lynn** "Coalition on Mediation, Older Americans Say Few Advocates for Poor Use ADR" World Arbitration & Mediation Report June, 1991 V.2 N.6 pp. 162-163 The author argues that advocates for low-income elderly did not make much use of ADR techniques. **INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ CONFERENCE PROCEEDINGS/ SENIOR CITIZENS AS PARTIES**

**Neslund, Nancy** "Dispute Resolution: A Matrix of Mechanisms" Journal of Dispute Resolution March 22, 1991 N.2 pp. 217-265 This lengthy article attempts to "fabricate a structure of dispute resolution mechanisms on which later research, theoretical and empirical, can hang" by offering summaries, analyses, and tables detailing the many aspects of alternative dispute resolution. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PRETRIAL CONF/ NON-BINDING RECOMMENDATION PROC-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL

**Neubauer, Mark A.** "Settling Once and For All" Trial August, 1991 V.27 N.8 pp. 31(4) The author describes practical pointers that can be used to avoid common settlement traps and setbacks. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: EVAL OF OPTIONS AND OFFERS/ SETTLEMENT: AUTHORITY

**Neufeld, Fred** "Enforcement of Contractual Arbitration Agreements Under the Bankruptcy Code" American Bankruptcy Law Journal June 22, 1991 - Summer V.65 N.4 pp. 525-558. This article examines what effect a commercial contract containing a forum selection clause providing for the arbitration of contract disputes between parties has when one of the parties subsequently seeks bankruptcy law protection. The article specifically looks at the conflict between the Federal Arbitration Act's requirement that federal courts enforce arbitration agreements, and the fundamental tenet of bankruptcy calling for the consolidation of disputes. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CONSUMER/ FAIRNESS

**Nicholson, Alastair** "Mediation in the Family Court" Law Institute Journal January, 1991 V.65 N. 1-2 pp. 61-62 The family court of Australia plans to introduce a new ADR service: voluntary mediation by

trained practitioners. MED: RELATED PROCESSES-GENERAL/  
MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER:  
FAMILY (DOMESTIC REL)/ RELATION TO ONGOING  
LITIGATION

**Nickles, Peter J.** "Fast-Trade Arbitration: A Claimant's Perspective"  
The American Review of International Arbitration 1991 V.2 N.2 p.  
143 The author recounts a fast-track arbitration in which he represented  
the party seeking relief, and draws favorable conclusions as to the  
procedure's effectiveness as an alternative to more cumbersome and  
lengthy conventional arbitration. Some of the biggest differences between  
the two procedures include reduced or no time for extensive discovery,  
expert analysis, or evidentiary hearings in the fast-track option. ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING  
ARB AGREEMENT/ INST NATURE: GOV'T ENTITIES/ SUBJ  
MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

**Nixon, Jennifer A.** "Arbitration" Suffolk University Law Review June  
22, 1991 - Summer V.25 N.2 pp. 479-485 The article reviews a  
specific Rhode Island case (Town of Coventry v. Turco) in which an  
arbitrator's award was vacated because the arbitrator exceeded authority  
and reached an irrational result. The author concludes that this court  
decision will undermine the strong public policy favoring dispute  
resolution outside of the courtroom. ARB: BINDING ARB-  
GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GOV'T/  
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

**Nocas, Andrew J.** "Many Methods are Used for Resolving Disputes"  
The Los Angeles Daily Journal January 28, 1991 V.104 N.20 p. S18  
This article gives a cursory description of some of the many methods of  
alternative dispute resolution such as contractual and judicial arbitration,  
settlement conferences, mediation and mini-trials. MED: RELATED  
PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION  
PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC-  
MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC-  
NON-BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ ARB: BINDING ARB- GENERAL/ REQUIREMENTS:  
CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR  
RULES/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF  
APPROPRIATE PROCESS

**Nolan, Dennis R.** "R.I.P.: Compulsory Labour Arbitration in New  
Zealand, 1894-1984" Comparative Labor Law Journal June 22, 1991 -

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Summer V.12 N.4 pp. 411-457 The author examines New Zealand's compulsory arbitration system, its origins, objectives, changes, consequences, and death. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

Nonggorr, John "Problems of Choice of Law and Arbitration Provisions for Economic Development Contracts in PNG" Melanesian Law Journal January, 1991 - Annual V.19 pp. 11-42 Law and arbitration provisions chosen by the PNG mining and petroleum development contracts are discussed by the author, who notes some of the problems arising in the provisions and attempts to identify the relationship of the courts to the arbitration tribunals established by the contracts. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ JUDICIAL PARTICIPATION

Norberg, Charles Robert "Recent Developments in Inter-American Commercial Arbitration" Northwestern Journal of International Law & Business March 22, 1991 - Spring-Summer V.12 N.1 pp. 86-96 The article briefly discusses international arbitration in the Western hemisphere and predicts that the future is bright for arbitration. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ SUBJ MATTER: RENTAL HOUSING/ SETTLEMENT: AUTHORITY/ COURT REFORM

Norling, John C. "The Scope of the Federal Arbitration Act's Preemption Power: An Examination of the Import of Saturn Distribution Corp. v. Williams" Ohio State Journal on Dispute Resolution September 22, 1991 - Fall V.7 N.1 pp. 139-156 This Note discusses the various cases dealing with the scope of the Federal Arbitration Act's preemption power, concluding that such power was overextended in Saturn Distribution Corp. v. Williams. INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: PUBLIC POLICY

Nouryan, Lola; Weisel, Martha S. "Bringing Mediation to Educational Disputes" Arbitration Journal September, 1991 V.46 N.3 pp. 29-33 The article profiles the New York state pilot project on the mediation of parent - school conflicts, discussing its strengths and weaknesses.

**MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING  
COMM AND NEG/ SUBJ MATTER: EDUCATION/ SUBJ MATTER:  
PUBLIC POLICY**

**O'Brien, Nancy P.** "Arbitration Allocates Costs of Hazardous Waste Cleanup Claim Under Superfund" Journal of Dispute Resolution September 22, 1991 - Fall N.2 pp. 347-366 The author evaluates United States v. Acton Corp., 733 F. Supp. 869 (1990), which approved a consent decree stipulating arbitration of cost allocation among responsible parties for a hazardous waste case when a 3rd party who refused to join in the consent decree intervened, claiming the decree and its arbitration procedure were unfair. **ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING  
AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER:  
ENVIRONMENT/ 3RD PARTY: LIABILITY & IMMUNITY/ EFFECT  
OF PROCESS ON NON-PARTICIPATORY PARTIES**

**Olson, Craig A.; Jarley, Paul** "Arbitrator Decisions in Wisconsin Teacher Wage Disputes" Industrial and Labor Relations Review April, 1991 V.44 N.3 pp. 536(12) This study examines the role of wage comparability in the decisions of arbitrators in final offer wage disputes in Wisconsin between 1977-1986. The study shows that arbitrators place substantial weight on settlements, beyond what was previously hypothesized, and that this gives added weight to the influence of outside parties on the negotiation process. **ARB: BINDING ARB- GENERAL/  
ARB: FINAL OFFER ARB/ SUBJ MATTER: LABOR-MANAGEMENT  
(UNIONS)/ SUBJ MATTER: EDUCATION**

**Osborne, D.M.** "Arming Young Convicts With Mediation Skills" The American Lawyer September, 1991 p. 108 This article explains the results of teaching mediation skills to teens at a maximum security prison camp. **MED: RELATED PROCESSES-GENERAL/ MED:  
RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC  
POLICY DIALOGUE/ SUBJ MATTER: PRISONS**

**Oswald, Sharon L.** "Students as Arbitrators: An Empirical Investigation" Industrial Relations May 23, 1991 - Spring V.30 N.2 pp. 286-293 This study compares the decisions reached by 233 students and 146 practicing arbitrators on two hypothetical discharge cases, and finds significant differences in three of the eight awards rendered by the participants. The author cautions about using students as substitutes for arbitrators in future studies. **ARB: MANDATORY,  
COURT-ANNEXED- GENERAL/ ARB: SELECTION OF**

ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF  
ARBITRATOR

Owsia, Parviz "Consensual Abandonment of Contract: Innovative Developments Under English Law in the Eighties Concerning Arbitration References" Journal of International Arbitration December, 1991 V.8 N.4 pp. 55-87 While legislation (S.102 of the Courts and Legal Services Act, 1990) is going to settle the question of states arbitration references in England, the author contends that contractual issues will continue to be analyzed in the light of the relevant parts of the decisions that he has included in the article. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ LEGISLATION

Paglia, Antoinette D. "Taking the Tort Out of Court - Administrative Adjudication of Medical Liability Claims: Is It the Next Step?" Southwestern University Law Review January, 1991 - Winter V.20 N.1 pp. 41-76 This comment discusses the proposal of allowing medical malpractice claims to be decided by administrative agencies instead of jury trials and considers costs involved, due process concerns, and 7th Amendment right to jury trial claims. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: MEDICAL MALPRACTICE/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Park, William W. "International Commercial Arbitration and the Courts" (book review) American Journal of International Law July, 1991 V.85 N.3 pp. 586-587 This review of International Commercial Arbitration and the Courts, which provides citations to 16 national legislative enactments, one judgement of the French Caus de Cassation, 17 U.S. cases and two law review articles, states that this book will prove to be a useful research tool. ARB: MANDATORY, COURT-ANNEXED-TRIAL DE NOVO/ SUBJ MATTER: RENTAL HOUSING/ 3RD PARTY: TRAINING

Park, William W. "Reglement de Differends Internationaux Impliquant Parties Privees" McGill Law Journal June 22, 1991 V.37 N.2 pp. 375-413 The author discusses the role of arbitration in the settlement of international financial disputes, and concludes that arbitration can contribute to the world's economic growth by assuring that a greater number of loan agreements will be enforceable. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB:

**OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ  
MATTER: INT'L/ ECONOMIC ADVANTAGES OF ADR**

**Park, William W.** "The 1989 Guide to International Arbitration and Arbitrators" (book review) American Journal of International Law July, 1991 V.85 N.3 p. 587(1) The reviewer finds that the book provides a useful guide to the individuals and laws important to international arbitration. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: RENTAL HOUSING/ 3RD PARTY: TRAINING

**Park, William W.** "When the Borrower and the Banker Are at Odds: The Interaction of Judge and Arbitrator in Trans-Border Finance" Tulane Law Review June, 1991 V.65 N.6 pp. 1323-1375 This article explores arbitration as an option for resolving international finance disputes and suggests that arbitration may not deserve its disfavored status. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ ECONOMIC ADVANTAGES OF ADR/ FISS/ SELECTION OF APPROPRIATE PROCESS

**Parker, Rhonda G.** "Mediation: A Social Exchange Framework" Mediation Quarterly 1991-92 V.9 N.2 p. 121 The author analyzes mediation through a discussion of the social exchange approach to mediation and emphasizes the usefulness of this theoretical framework. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PSYCH FACTORS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: PUBLIC POLICY/ POWER IMBALANCE

**Parrette, Bernard V.** "The Contract Disputes Act and the Administrative Dispute Resolution Act: A Richness of Remedies, Finally Ready for Trial?" Public Contract Law Journal June, 1991 - Spring V.20 N.3 pp. 293-301 This article discusses what the ADR Act does and does not do, and points out that the new Act provides various remedies that need to be tried by the contracting community. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CONSTRUCTION/ LEGISLATION

**Paterson, Robert K.** "Canadian Developments in International Arbitration Law: A Step Beyond Mauro Rubino-Sammartano's International Arbitration Law" Willamette Law Review June 22, 1991 -



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Summer V.27 N.3 pp. 573-593 The author documents the progress made in Canada in the area of international arbitration law. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COURT REFORM

Paulsson, Jan "ICSID's Achievements and Prospects" (ICSID REVIEW) Foreign Investment Law Journal September 22, 1991 - Fall V.6 N.2 pp. 380-399 This article reviews the development and twenty-five year history of the International Centre for Settlement of Investment Disputes, and summarizes the author's comments under six propositions: 1) ICSID acceptance is nearly universal; 2) ICSID is unsuitable for routine contracts; 3) ICSID has a built-in bias favoring systems 4) ICSID personnel qualifications are high; 5) ICSIO is cost-effective if used properly; and 6) ICSID's annulment mechanism is necessary. SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ TYPE OF SOURCE: BOOK REVIEW/ INST NATURE: PRIVATE, PROFIT-MAKING

Paulsson, Jan "The Immunity of Arbitrators" (book review) Law Quarterly Review October, 1991 N.107 pp. 688-690 The volume consists of 16 essays by different contributors describing and speculating about the regimes of immunity under 13 sets of national laws and three sets of institutional rules. ARB: SERVING AS ARBITRATOR/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ QUALITY CONTROL

Pearson, Jessica "The Equity of Mediated Divorce Agreements" Mediation Quarterly Winter, 1991 V.9 N.2 p. 179 This author compares the financial positions of women who obtained a divorce through the adversarial system with those who participated in divorce mediation and concludes that they end up in essentially the same place. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

Penna, Carolyn M. "Getting to Yes: The Video Workshop on Negotiation" Arbitration Journal December, 1991 V.46 N.4 pp. 63(2) This is a video review of a workshop on effective negotiation. The reviewer recommends the tape as a teaching tool to gain insight into the process of negotiation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND

TECHNIQUES- PREP/ TYPE OF SOURCE: BOOK REVIEW/  
TEACHING

**Perera, A. Rohan; Noel Dias** "Asian Agricultural Products Ltd. v. The Republic of Sri Lanka" The American Review of International Arbitration 1991 V.2 N.2 p. 216 This is a critique of the decision of an arbitral tribunal empaneled by the International Centre for Settlement of Investment Disputes, focusing on the panel's ruling on choice of law, burden of proof, and the use of renvoi. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L/ FISS

**Perline, Martin M.; Poynter, David J.** "Bargaining Diversity in Telecommunications" Labor Law Journal April, 1991 V.42 N.4 pp. 252-254 The authors searched for an explanation as to why union settlements with the former Bell System operating companies were showing much more diversity than before its 1984 breakup. NEG: W/OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Petillon, Lee R.** "Must Clients Be Informed About ADR?" The Los Angeles Daily Journal October 17, 1991 V.104 N.207 p. C1 The author argues that serious consideration ought to be given to a proposed amendment to the California Rules of Professional Conduct that would require attorneys to advise clients on the availability of alternatives to litigation. ARB: PRIVATE JUDGING/ DISPUTE NEG. v. DEAL MAKING/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

**Phillips, Elizabeth** "Injunctions Pending Arbitration: Do the Courts Really Have Jurisdiction?" Journal of Dispute Resolution September 22, 1991 - Fall N.2 pp. 381-395 The author evaluates Blumenthal v. Merrill Lynch, 910 F.2d 1049 (2d Cir. 1990), which follows the growing majority of cases holding that the issuance of an injunction to preserve the status quo pending arbitration fulfills the court's obligation under the FAA to enforce a valid agreement to arbitrate. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL

**Phillips, Michael** "Dispute Resolution Between Governments: The Canada-United States Environmental Context" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 431-442 The

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author discusses the techniques employed by Canada and the United States in resolution of environmental disputes. SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION/ LEGISLATION

**Picker, Sidney, Jr.** "Introduction and History of the Canada-U.S. Law Institute" Canada-United States Law Journal September 22, 1991 - Winter V.17 N.2 pp. 217-219 The author examines the Canada - U.S. Law Institute by discussing its purposes and the programs established for implementing those purposes. INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: ENVIRONMENT/ COMPARISONS: CROSS-CULTURAL/ TEACHING

**Pickering, Michael H.** "He Who Pays the Piper" Law Institute Journal January, 1991 V.65 N.1-2 pp. 43-50 The author, in a fictitious letter from a CEO to the corporation's law firm, suggests cutting costs by abandoning the presumption that cases must be litigated. After reviewing factors that discourage corporations and firms from settling, the "CEO" offers proposals for encouraging early settlement, including requiring the firm to do regular evaluations of the likely cost of litigating a suit versus how much the corporation should be willing to accept as pay in settlement. INST NATURE: GENERAL/ SUBJ MATTER: CORPORATE/ ECONOMIC ADVANTAGES OF ADR/ RELATION TO ONGOING LITIGATION

**Pirie, Andrew J.** "Dispute Resolution: A Directory of Methods, Projects and Resources" (book review) Canadian Bar Review June, 1991 V.70 N.2 pp. 408-410 The reviewer finds Dispute Resolution: A Directory of Methods, Projects, and Resources a valuable resource tool. The book will increase the ability of the legal profession to understand alternative dispute resolution in Canada. INST NATURE: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ COURT REFORM/ ROLE OF LAWYERS

**Pittard, Marilyn** "Unfair Dismissal" Australian Business Law Review December, 1991 V.19 N.6 pp. 468-472 In Trans Waste Pty Ltd. v. Marsh and Downey, a fired employee sought to establish that the Industrial Relations Commission had jurisdiction to hear his complaint for unfair dismissal. The Australian Supreme Court held that the Commission has no separate jurisdiction to hear a case for which no conciliation and arbitration board exists. In so ruling, the court did not reach the question whether a dispute between an employer and one former employee constitutes an "industrial dispute." INST NATURE: JUSTICE

**SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT**

**Pizzurro, Joseph D.** "Arbitration - Enforcement of Foreign Arbitral Award - UN Convention - Standing to Sue - Effect of U.S. Assets Control Regulations on in Personam Claims" American Journal of International Law January, 1991 V.85 N.1 pp. 178-181 This article is a summary of the case of National Oil Corp. v. Libyan Sun Oil Co. The article sets at the facts of the case, goes through relevant case law and then provides the holding of the case. It is interesting to note that the author of the article was of counsel to the petitioner, Libyan National Oil Co. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SUBJ MATTER: RENTAL HOUSING

**Pliskin, Richard** "Arbitration: Costly, Slow, Well-Liked" New Jersey Law Journal August 3, 1991 V.128 N.12 p. 1 The author raises the concern that arbitration may be as costly and as slow as litigation, maintaining, however, that it is still the most frequently chosen form of alternative dispute resolution. AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ QUALITY CONTROL/ RELATION TO ONGOING LITIGATION/ SELECTION OF APPROPRIATE PROCESS

**Pliskin, Richard** "As Litigation Saps Profits, Businesses Turning to ADR" New Jersey Law Journal September 26, 1991 V.129 N.4 p. 1 This article develops and lays out the economical and efficiency advantages of alternative dispute resolution in a simple, easy to understand format. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CONSUMER/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

**Plofchan, Thomas K., Jr.** "Coming Home to Contract: Loosening the Death-Grip of Statutorily Created Rights on Arbitration in the Non-Union World" Ohio State Journal on Dispute Resolution March 22, 1991 - Spring V.6 N.2 pp. 243-282 This article is a comprehensive review of the utilization of arbitration in the non-union employment relationship, as endorsed and developed both by the Supreme Court and the U.S. Congress. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER:

LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT  
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Polebaum, Elliot E.; Conlan, Robert J. "US Rules on Proper Venue in Which to Petition to Vacate a Foreign Arbitration Award" International Business Lawyer April, 1991 V.19 N.4 p. 219(3) The authors discuss International Standard Electric Corp. v. Bidas Sociedad Anonima Petrolera, Industrial Comercial, which marks the first time a U.S. court has adopted the same interpretation as the courts of other nations of the U.N. convention regarding venue for petitioning foreign arbitration awards. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ JUDICIAL PARTICIPATION/ ORGANIZATION POLICIES AND RULES

Polkinghorne, Michael; Najar, Jean-Claude "An Introduction to ICC Arbitration in Australia: Some Current Issues in International Arbitration" Bond Law Review June, 1991 V.3 N.1 pp. 43-65 The author discusses ICC arbitration in Australia and the levels of judicial scrutiny of ICC arbitration decisions. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L

Posner, Joseph "Be Careful You Don't Waive Arbitration Clause" The Los Angeles Daily Journal June 6, 1991 V.104 N.113 p. 7 The author explains Kaneko Ford Design v. Citipark Inc., 202 Cal. App. 3d 1220 (1988), where the court denied a motion to compel arbitration on the basis of unreasonable delay and naming a defendant not a party to the arbitration agreement. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED-FINANCIAL DISINCENTIVES/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ SUBJ MATTER: TAX

Press, Sharon "Alternative Dispute Resolution (ADR): A Critical Review of the Recent Literature" (book review) The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 257-264 The author reviews Donovan, Leisure, Newton and Irvine's ADR Practice Book, and finds that while it is duplicative and general, it can provide helpful practical tips on various types of ADR to the uninitiated lawyer. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/

**NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL  
EVAL/ ARB: JUDICIAL REVIEW**

**Press, Sharon** "Alternative Dispute Resolution (ADR): A Critical Review of The Recent Literature" (book review) The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 257-264 The author reviews Peter Lovenheim's Mediate Don't Litigate, and finds that while the book generally manages to explain what a consumer of mediation should expect, Lovenheim's focus is too limited and his treatment is too simplistic. MED: RELATED PROCESSES-GENERAL/ 3RD PARTY: TRAINING

**Press, Sharon** "Alternative Dispute Resolution (ADR): A Critical Review of the Recent Literature" (book review) The Justice System Journal September 22, 1991 - Fall V.14 N.2 pp. 257-264 The author finds Harold Paddock's Settlement Week: A Practical Manual for Resolving Civil Cases Through Mediation, to be a complete and informative explanation of an ADR technique in which court cases are resolved through mediation by volunteer mediators over a week-long period. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ 3RD PARTY: TRAINING

**Pringle, Edward E.** "A Chief's View: 'Mind-Set' Obstructs Court Alternatives" Preventive Law Reporter September, 1991 V.10 N.3 pp. 32(2) The author, a former Chief Justice of the Colorado Supreme Court and a former mediator, espouses the potential for mediation to accomplish solutions, and he advocates a fundamental change in the attitudes of lawyers toward mediation. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR

**Pryles, Michael** "International Dispute Resolution" Law Institute Journal January, 1991 V.65 N.1-2 pp. 66-68 International dispute resolution involves special problems of distance, different languages, and different laws. The author surveys a pair of Conventions and Model Laws which have helped make arbitration the preferred method in international disputes. SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

**Quenon, Evan** "Alternative Dispute Resolution in the Construction Industry" (book review) Legal Information Alert July, 1991 V.10 N.7-8 pp. 16(2) The reviewing author describes the book as a comprehensive, practice-oriented work concerning the construction

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industry's use of ADR both domestically within various countries and on an international level between countries.

MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Quenon, Evan "Donovan Leisure Newton and Irvine ADR Practice Book" (book review) Legal Information Alert July, 1991 V.10 N.7-8 pp. 15(1) The author describes the publication as one aimed at attorneys and executors that provides a comprehensive examination of ADR including arbitration, mediation, mini-tools and private judging. The book offers guidance on implementing ADR including sample forms and clauses. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: CORPORATE/ TYPE OF SOURCE: BOOK REVIEW/ ECONOMIC ADVANTAGES OF ADR/ ISSUE & CLAIM PRECLUSIVE EFFECTS

Quenon, Evan "Doyles Dispute Resolution Practice" (book review) Legal Information Alert July, 1991 V.10 N.7-8 pp. 16(1) The author characterizes the publication as a valuable resource for those involved in commercial arbitration in North America and Asia/Pacific. The publication, which is geared toward attorneys and corporate officials, contains procedural rules, recent decisions, developments, book reviews, bibliographies, and directories. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Quigley, Thomas E. "Employee Involvement in the OSHA Settlement Process" Detroit College of Law Review March 22, 1991 - Fall V.1990 N.3 pp. 579-597 This article explores the avenues of participation employees have in the OSHA claim settlement process, and concludes that more areas of communication need to be developed to supplement the inadequate system now present. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

**Quinn, Kathleen M.** "Family Evaluation in Child Custody Mediation, Arbitration, and Litigation" (book review) The Bulletin of the American Academy of Psychiatry and the Law March, 1991 V.19 N.1 pp. 101-102. The author recommends Richard A. Gardner's latest book on alternative dispute resolution in child custody cases only to readers who desire a cursory treatment of arbitration and mediation. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ SELECTION OF APPROPRIATE PROCESS/ TEACHING

**Ragan, Charles R.** "Preparing For The Pitfalls of Arbitration in Japan" East Asian Executive Reports January 15, 1991 V.13 N.1 pp. 9(5) This article summarizes the negatives involved in commercial arbitration in Japan, recommending utilization of mini-trials as a more efficient method of alternative dispute resolution. ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ SUBJ MATTER: COMMERCIAL/ COMPARISONS: CROSS-CULTURAL

**Readey, James A.** "ADR in Construction Disputes: Innovation in the 1990's" Defense Counsel Journal October, 1991 V.58 N.4 pp. 519(6) This article explains some of the advantages of ADR in the construction industry, and provides three examples of how ADR was used successfully in actual cases. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

**Rees, Daniel I.** "Grievance Procedure Strength and Teacher Quits" Industrial and Labor Relations Review October, 1991 V.45 N.1 pp. 31(12) The author statistically analyzes Richard B. Freeman's study showing that union workers are less likely to quit their job than nonunion workers with data of New York State public school teachers from 1975 through 1978. The author concludes that there is support to Freeman's argument but finds the strength of the union and its ability to provide identity and a sense of solidarity to workers may also effect the turnover ratio. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EDUCATION

**Rees, David K.** "Rule 408: Statements Made in the Course of Settlement Negotiations" Colorado Lawyer August, 1991 V.20 N.8 p. 1620(1)



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Evidence of conduct or statements made in compromise negotiations are generally not admissible in Colorado, though some courts have held that admissions are admissible.

NEG: W/ OR W/O ASSIST OF  
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Rehmus, Charles M. "Mediation Research" (book review) Industrial and Labor Relations Review July, 1991 V.44 N.4 pp. 760(2) Mediation Research, by Kenneth Kressel, Dean G. Pruitt and Associates, is a summary and compilation of a cross-section of mediation methodologies and research efforts over the last twenty-five years. The chapters on labor-management and ultra-organizational mediation are recognized as being particularly useful. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: LABOR-GENERAL

Reif, Linda C. "Conciliation as a Mechanism for the Resolution of International Economic and Business Disputes" Fordham International Law Journal March 22, 1991 - Spring V.14 N.3 pp. 578(50) This article recommends the use of conciliation in international disputes through discussion of the various dispute resolution techniques utilized in the international community, with an emphasis on the ultimate dependence of all methods upon consent, and the success of various modes of conciliation. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-ECONOMIC/ MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ SELECTION OF APPROPRIATE PROCESS

Renouf, Emilia "Family Conciliation/Mediation in Australia: Which Way Forward?" Australian Dispute Resolution Journal May, 1991 V.2 N.2 pp. 108(8) This paper discusses a pilot program and the results of research regarding conciliation/mediational counseling of family disputes. MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SELECTION OF APPROPRIATE PROCESS

Reuben, Richard C. "A Chief Judge Encourages Arbitration" The Los Angeles Daily Journal December 10, 1991 V.104 N.244 p. 7 The article discusses the feasibility and likelihood of using arbitration to resolve tax disputes, as a result of Rule 124, the Tax Court's Voluntary

Binding Arbitration Rule. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: TAX

**Reuben, Richard C.** "Justice Nudge Title VII Claims to Arbitration; Two Actions Seen Tipping on Job-Bias Cases; 'A Strong Indication.'" The Los Angeles Daily Journal May 21, 1991 V.104 N.101 p. 1 This article reviews recent decisions by the circuit courts and the Supreme Court to assess the impact of Gilmer v. Interstate/Johnson Lane on Title VII cases. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ INST NATURE: GENERAL/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-DISCRIMINATION

**Reuben, Richard C.** "Justices Ratify Arbitration for Age Bias Claims; Experts Say Rationale Could be Extended to Wide Range of Cases; Condition of Employment?" The Los Angeles Daily Journal May 14, 1991 V.104 N.96 p. 1 The author cites authorities in labor law field that predict Gilmer v. Interstate/Johnson Lane Corp., will have a significant effect on other areas of federal job bias law and will encourage employers to condition employment on agreement to arbitration. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-DISCRIMINATION

**Reynolds, Nancy F.** "Why We Should Abolish Penalty Provisions for Compulsory Nonbinding Alternative Dispute Resolution" Ohio State Journal on Dispute Resolution September 22, 1991 - Fall V.7 N.1 pp. 173(18) This Note discusses the widespread use of compulsory alternative dispute resolution, suggesting penalty provisions for failing to participate should be abandoned in favor of sanctioning lawyers for bringing frivolous suits. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO

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**Richter, Irwin E.** "For Those Who'd Rather Resolve Than Litigate" New Jersey Law Journal February 28, 1991 V.127 N.9 p. 70 This author suggests alternative dispute resolution methods as the optimum in efficiency to resolve disputes, especially those involving complex environmental issues. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ROLE OF LAWYERS

**Rieders, Clifford A.** "Let's Make a Deal: Understanding the Negotiation Process in Ordinary Litigation" (book review) Trial May, 1991 V.27 N.5 pp. 94(1) The reviewer commends the book for its social science, caricature approach to describing a variety of negotiation situations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ TYPE OF SOURCE: BOOK REVIEW

**Rifkin, Janet; Millen, Jonathan; Cobb, Sara** "Toward a New Discourse for Mediation: A Critique of Neutrality" Mediation Quarterly Winter, 1991 V.9 N.2 p. 151 The author proposes narrative, or storytelling, as an alternative discourse for mediation, which has tended to favor neutrality in mediation, a concept that the authors seek to debunk through case analysis. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: ENCOURAGING COMM AND NEG/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: TRAINING/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS

**Riley, William L.** "Some Checks Placed on Actions of Arbitrators" The Los Angeles Daily Journal August 20, 1991 V.104 N.166 p. 7 The article describes how arbitration in the securities field has some checks placed upon it based upon Robbins v. Paine Webber Inc., 761 F. Supp. 773 (1991). ARB: MANDATORY, COURT-ANNEXED- GENERAL/

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**Riskin, Leonard L.** "The Farmer-Lender Mediation Program: Implementation By The Farmers Home Administration" Administrative Conference of the United States November, 1991 This is a study on how the Farmers Home Administration (FMHA) implemented a program to mediate delinquent farm loans which outlines the intricacies involved in the farmer-lender mediation program and encourages the use of alternative methods of dispute resolution. MED: RELATED PROCESSES-GENERAL/ MED: NEGOTIATED RULE-MAKING/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OPENING AND SETTING GUIDELINES/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FARM/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

**Riss, Suzanne** "Malpractice Case Stirs Divorce Bar" New Jersey Law Journal March 28, 1991 V.127 N.13 p. 1 The author analyzes recent development in divorce law and alternative dispute resolution methods through her examination of Aiegelheim v. Apollo. INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFIDENTIALITY/ ROLE OF LAWYERS

**Ristau, Bruno A.; Smith, T. Bradbrooke** "Cross-Border Litigation Involving Canadian and U.S. Litigants" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 247(33) These two articles discuss cross-border litigation between Canadian and U.S. litigants including the various rules and services created for application in such litigation. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM/ LEGISLATION

**Robbins, David E.** "Arbitrating Securities Disputes" (book review) Arbitration Journal June, 1991 V.46 N.2 pp. 54(2) The book reviewed is an explanation of securities arbitration law which includes thirteen separate chapters on a wide range of issues. ARB: PREPARATION/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING

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**Robbins, Norman N.** "Secrets of Steam-Room Bargaining" Family Advocate March 22, 1991 - Spring V.13 N.4 pp. 42(2) This article discusses negotiation tactics that should be implemented in domestic relations cases, so as to fully respond to a client's needs. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS

**Robel, Lauren K.** "The Politics of Crisis in the Federal Courts" Ohio State Journal on Dispute Resolution September 22, 1991 - Fall V.7 N.1 pp. 115(22) The author discusses how politicians use claims about the existence of a judicial crisis which threatens access to the federal courts to create an artificial and unsubstantiated public-interest justification for court reform. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM

**Roberts, Marian; Roberts, Simon** "Mediation: The Caen Congress" Family Law February, 1991 N.21 pp. 48(2) This Note summarizes the proceedings of the first European Congress on Family Mediation, held at Caen in 1990. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)

**Robinson, James K.** "To Litigate or Not to Litigate - Is That the Question?" Michigan Bar Journal August, 1991 V.70 N.8 pp. 758(5) The author examines the major arguments concerning the litigation explosion in the United States. JUDICIAL PARTICIPATION/ LEGISLATION/ RELATION TO ONGOING LITIGATION/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

**Robinson, Margaret** "Mediation Matters" Family Law November, 1991 V.22 pp. 341(1) This comment introduces Joan Kelly's article based on her studies of California couples who underwent comprehensive mediation. MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Rogers, Susan J.** "Ten Ways to Work More Effectively with Volunteer Mediators" Negotiation Journal April, 1991 V.7 N.2 pp. 201 Using a group of New York State volunteer community mediators, the author comments on the demographic make-up of mediators, their motivation, their likes and gripes, and a list of ways to guide those who work with volunteer mediators.

MED: RELATED PROCESSES-GENERAL/  
MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED:  
FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ TYPE  
OF SOURCE: CASE STUDY/RESEARCH REPORT

**Roman, Andrew J.** "The Role of Public Interest Litigation and Other Alternatives" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 387(9) The article addresses the major differences in consumer litigation between the U.S. and Canada and discusses the proposed new laws aimed at reforming the lack of public interest litigation in Canada.

INST NATURE: GENERAL/ INST NATURE:  
SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: INT'L/  
COMPARISONS: CROSS-CULTURAL/ LEGISLATION

**Rose, Gerald; Gerlis, Stephen** "Conciliation for Family Finance" Family Law March, 1991 N.21 pp. 92(2) The authors describe the benefits of a Pre-Trial-Review System in Great Britain vis-a-vis divorce cases.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-  
GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED:  
ENCOURAGING COMM AND NEG/ NON-BINDING  
RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ INST  
NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER:  
FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ COURT  
REFORM

**Rosenberg, Joshua D.** "In Defense of Mediation" Arizona Law Review June 22, 1991 - Summer V.33 N.3 pp. 467(40) This article is a response to criticism that mediation in divorce cases is harmful to women in that it fails to validate their feelings, forces them to confront their husbands, and takes advantage of their tendency to compromise or sacrifice. Rosenberg responds that litigation would only be worse, and that many of these complaints point up problems in the law which mediation never created nor can solve.

MED: RELATED  
PROCESSES-GENERAL/ MED: PSYCH FACTORS/ INST NATURE:  
JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY  
(DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE/  
FAIRNESS/ POWER IMBALANCE

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**Ross, Donald MacArthur** "Family Conciliation: The Child's View and Confidentiality" Journal of the Law Society of Scotland January, 1991 V.36 N.1 pp. 20(3) The author, a judge, expresses the hope that Scotland will soon have a less formal family court system. Judges are evenly split on whether to interview children for their preferences on custody arrangements. If the child selects one parent over the other, the judge must explain the award to the appellate court's satisfaction, but doing so will probably require breaching confidentiality  
INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ CONFIDENTIALITY

**Ross, Lee; Stillinger, Constance** "Barriers to Conflict Resolution" Negotiation Journal October, 1991 V.7 N.4 p. 389 The author describes roadblocks which are inherent to the resolution of any conflict such as the threat of deception, psychological barriers, and multiple interests. The article attempts to guide a negotiator through these pitfalls.  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: PSYCH CONSIDERATIONS

**Rothenberg, David** "Dissolution Counseling" Florida Bar Journal April, 1991 V.65 N.4 pp. 65(2) This article describes the positive role of dissolution counseling in divorce cases.  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: PSYCH CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

**Rothken, Ira P.** "Punitive Damages in Commercial Arbitration: A Due Process Analysis" Golden Gate University Law Review June 22, 1991 - Summer V.21 N.2 pp. 387(17) This comment theorizes that awarding punitive damages in commercial arbitration is "state action" requiring due process.  
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ FAIRNESS/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION

**Rothman, John D.** "Mediation and Arbitration From the Attorney's Perspective" Arkansas Lawyer July, 1991 V.25 N.3 pp. 12(4) The author points out the primary difference between mediation and arbitration, namely the arbiter's power to dictate a settlement. He then lists the respective advantages of each process which include speed, reduced cost,

and (in arbitration) predictability of result. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL

**Rovine, Arthur W.** "In Iraq Claims Process: Where and How? Part II" The American Review of International Arbitration 1991 V.2 N.1 p. 102 This article serves as a follow-up to "An Iraq Claims Process" in The American Review of International Arbitration and reviews the latest United Nations' actions taken to create an Iraq claims forum for claims arising from the 1990 invasion of Kuwait. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

**Rowe, Mary P.** "The Ombudsman's Role in a Dispute Resolution System" Negotiation Journal October, 1991 V.7 N.4 p. 353 The author describes the functions, benefits, and characteristics of creating an internal ombudsman position within a dispute resolution system, concluding in the terms of Ury, Brett, and Goldberg, that ombudsmen can help to "provide motivation resources, and skills for continuous problem solving with a dispute resolution system." SUBJ MATTER: CORPORATE/ DISPUTE PREVENTION/ OMBUDSPERSON/ ORGANIZATION POLICIES AND RULES

**Rowland, Joan K.** "Communication and Psychology Variables: Reasons to Reject the Summary Jury Trial as an Alternate Dispute Resolution Technique" University of Kansas Law Review June 22, 1991 - Summer V.39 N.4 pp. 1071(32) This article briefly presents background information about summary jury trials and the legal debate regarding their use. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES

**Rungay, Judith** "Crime and Accountability: Victim/Offender Mediation in Practice" (book review) British Journal of Criminology June 22, 1991 - Summer V.31 N.3 pp. 309(2) The book reviewed deals with the subject of victim/offender mediation. The book covers both theoretical and practical information as well as the historical foundations of mediation in criminal law. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER:



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CRIMINAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS:  
CROSS-CULTURAL

**Rundlett, Ellsworth T., III** "Negotiating a Small Personal Injury Claim: Fifteen Points to Remember" Trial October, 1991 V.27 N.10 pp. 55(4) The author outlines key points of strategy in pursuing a small injury claim against insurance companies. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ POWER IMBALANCE

**Rusch, Linda J.** "Separation of Powers Analysis as a Method for Determining the Validity of Federal District Courts' Exercise of Local Rulemaking Power: Application to Local Rules Mandating Alternative Dispute Resolution" Connecticut Law Review March, 1991 - Spring V.23 N.3 pp. 483(83) Rusch uses the mandation of ADR by federal courts to illustrate a proposed model designed to supplant the "consistency test" currently governing district court rulemaking authority under the Federal Rules of Civil Procedure. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ JUDICIAL PARTICIPATION

**Rutkin, Arnold H.** "Adversarial System and Increased Use of Private Arbitration" Family Advocate June, 1991 - Spring V.13 N.4 pp. 4(2) An article from the editor of Family Advocate, warning that the move towards private arbitration will inevitably undermine the traditional rule of law because it does not establish precedents and primarily serves only the wealthy. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL

**Ruvolo, Ignazio J.** "ADR Requirement Trivializes Rules, Doesn't Help Clients" The Los Angeles Daily Journal October 16, 1991 V.104 N.207 p. C1 The author argues that since there remains a body of civil disputes not appropriate for alternative dispute resolution, the Cal. Rules of Professional Conduct ought not be amended to require attorneys to advise clients on the availability of ADR techniques. ARB: PRIVATE JUDGING/ DISPUTE NEG. v. DEAL MAKING/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

**Ryder, Richard P.** "Securities Arbitration Procedures Manual" (book review) Arbitration Journal March, 1991 V.46 N.1 pp. 65(2) The reviewer praises the manual for its tactical tips, appended reference materials, and practical application. ARB: BINDING ARB-GENERAL/ ARB: PREPARATION/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING

**Salvini, Dr. Giuseppe; Vacca, Dr. Cesare** "Report From Italy: The Gulf Crisis and Contracts Under Execution" The American Review of International Arbitration 1991 V.2 N.1 p. 110 This article addresses the concerns of Italian citizens' claims stemming from the Gulf crisis and the subsequent freeze on contractual obligations and payments imposed by the United Nations. The article advocates use of an internationally recognized arbitration tribunal, such as the Iran-U.S. Claims Tribunal to effect a meaningful resolution. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SETTLEMENT: AUTHORITY/ REQUIREMENTS: MANDATE TO USE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

**Samavati, Hedayah; Haber, Lawrence J.; Dilts, David** "Comparability and the Interest Arbitration of Economic Disputes in the Public Sector" Journal of Collective Negotiations in the Public Sector March 22, 1991 - Spring V.20 N.2 pp. 159(8) A look at "comparability" as a standard used by neutrals in determining proper economic package awards in interest arbitration of economic issues in the public sector. ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING/ AGREEMENT ON PROCEDURE

**Samuel, Adam** "Arbitration with the Arab Countries" Lloyds Maritime and Commercial Law Quarterly August, 1991 N.3 pp. 419(3) Although the reviewer finds this book to be poorly translated and structured, he does discover a compilation of arbitral awards involving Arab parties which provides insight into how arbitration law operates in Arab countries. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Sande, Ken** "Keeping Your Clients Out of Court" Quarterly March 22, 1991 - Spring V.12 N.1 p. 22 This article recommends biblical mediation and arbitration by way of conciliation contract clauses. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,

COURT-ANNEXED- GENERAL/ COMPARISONS:  
CROSS-CULTURAL/ REQUIREMENTS: CONTRACTUAL CLAUSES

Saposnek, Donald T. "The Value of Children in Mediation: A Cross-Cultural Perspective" Mediation Quarterly Summer, 1991 V.8 N.4 p. 325 This article explores the issue of whether to include children in the mediation process, analyzing the methods and implications of such inclusion. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ COMPARISONS: CROSS-CULTURAL

Scharf, Robert L. "Judicial Arbitration Hearings: Appearances Are Not Mandatory But Sanctions May Result" Los Angeles Lawyer June, 1991 V.14 N.4 pp. 21(4) This article concludes that under current California law a party is entitled to a trial de novo following a judicial arbitration hearing, regardless of whether or not he/she presents any evidence or appears. However, failure to appear may result in sanctions against the attorney and/or the client. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ COMPLIANCE ISSUES

Schmitt, Robert E. "Fostering the Increased Use of Pre-Trial Settlement Conferences to Help 'Fathom the End.'" Arizona Attorney June 22, 1991 V.27 N.11 pp. 7(2) Arizona is considering changing its Rules of Civil Procedure to allow parties to "opt in" to settlement conferences. Because he considers conferences so beneficial, the author suggests instead that settlement conferences be mandatory unless both sides "opt out." MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: OBTAINING AGREEMENT TO USE

Schohl, Joseph "The Italian Arbitrato Irrituale and its Enforceability Under the New York Convention: Spier v. Tecnica" The American Review of Irrituale Arbitration 1991 V.2 N.2 p. 226 This Note argues that the award resulting from an arbitrato irrituale, or informal arbitration, should become enforceable under the New York convention only after it is given the status of a "judgment" in the Italian courts. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ COMPARISONS: CROSS-CULTURAL

Segalla, Michael "Survey: The Speed and Cost of Complex Commercial Arbitrations" Arbitration Journal December, 1991 V.46 N.4 pp. 12(10) The author presents a large survey of advocates of AAA arbitration and concludes that settlements in complex cases are fair but that

resources may be wasted in the process. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

**Sever, Jay R.** "The Relaxation of Inarbitrability and Public Policy Checks on U.S. and Foreign Arbitration: Arbitration Out of Control?" Tulane Law Review June, 1991 V.65 N.6 pp. 1661(37) An examination of the limits countries, courts, and legislatures have placed on the scope of matters subject to arbitration and how those limitations may sacrifice fairness. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ FISS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

**Shadoan, George W.** "Pressure Points in Settlement Negotiations" Trial August, 1991 V.27 N.8 pp. 36(5) The author advises lawyers on how to best confront several sensitive issues with a client in a settlement. Topics include bad faith negotiation and attorney's fees. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ SETTLEMENT: PRESSURES TO SETTLE

**Shanahan, John L.** "The High-Low Agreement" For the Defense July, 1991 V.33 N.7 pp. 25(5) This article describes the concept of the high-low agreement, its acceptance in the judiciary, and its particular value in "low liability-high damage" type cases typical in products liability and medical malpractice. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ JUDICIAL PARTICIPATION

**Sharpe, Calvin William** "A Study of Coal Arbitration Under the National Bituminous Coal Wage Agreement Between 1975 and 1990" West Virginia Law Review March 22, 1991 - Spring V.93 N.3 pp. 497(102) This article examines the use of arbitration in the coal industry. NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL

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EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: FINAL OFFER ARB/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: LABOR-GENERAL

Shell, G. Richard "Is Arbitration a Just Route?" The National Law Journal February 1, 1991 V.13 N.23 p. 13 The article discusses the use of arbitration clauses in employment contracts to avoid discrimination lawsuits. ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ 3RD PARTY: NEUTRALITY/ FAIRNESS/ JUDICIAL PARTICIPATION

Shelton, Frank "Recent Developments in Commercial Arbitration" Law Institute Journal January, 1991 V.65 N.1-2 pp. 63(3) Selected provisions of the Commercial Arbitration Act 1984 are explained in this article. SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Sherman, Mark R. "Streamlined Mediation: Alternative to Litigating Discharge Disputes" Arbitration Journal March, 1991 V.46 N.1 pp. 34(4) The author contends that because of increases in wrongful discharge claims, mediation should be explored as an innovative tool to resolve these disputes. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: LABOR-GENERAL

Sherman, Rorie "Big Law Firms Join ADR Sign-Athon" The National Law Journal October 28, 1991 V.14 N.8 p. 2 The author reports on more than 150 law firms signing a pledge to advise their clients and educate their attorneys about ADR. INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Shields, Lloyd N. "The Role of Mandatory Arbitration for Financial Institutions" Arbitration Journal December, 1991 V.46 N.4 pp. 49(4) The author advocates that the banking industry should evaluate and use arbitration in settling disputes. ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR

**Shirley, Melinda** "Breach of an ADR Clause - A Wrong Without Remedy?" Australian Dispute Resolution Journal May, 1991 V.2 N.2 pp. 117(4) The article discusses damages available for a breach of an alternative dispute resolution clause. MED: OBTAINING AGREEMENT TO USE/ ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE ISSUES/ COURT REFORM

**Showers, H. Robert** "Conciliation: A Creative Necessity" Quarterly June 27, 1991 - Spring V.12 N.1 pp. 17(2) The author suggests a novel solution to the litigiousness of our society: teach biblical dispute resolution, practice the biblical process, and develop other mechanisms to provide alternatives to litigation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: EDUCATION

**Silverman, Moses** "Fast Track Arbitration: A Respondent's Perspective" The American Review of International Arbitration 1991 V.2 N.2 p. 154 The author relates the experience of representing a client in an ICC fast track arbitration. The author contends that despite some dangers of using a quick procedure, the ability of parties to work together and the limitation of issues to be decided made this arbitration successful. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR

**Simandle, Jerome B.** "Resolving Multi-Party Hazardous Waste Litigation" Villanova Environmental Law Journal January, 1991 - Winter V.2 N.1 pp. 111-141 The article asserts that the judicial process is often an ineffective mechanism in multi-party hazardous waste cases, due to the complexity of multi-party hazardous litigation. The article calls for the use of court supervised settlement processes, with the use of judicial sanctions to speed up the process. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB: PRIVATE JUDGING/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ TYPE OF SOURCE: BIBLIOGRAPHY/ TYPE OF SOURCE: BOOK REVIEW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Simmons, Denise** "Has the Enforcement of Foreign Arbitral Awards Gone Too Far?" Ohio State Journal on Dispute Resolution March 22, 1991 - Spring V.6 N.2 pp. 283-296 This comment criticizes the

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Marchetto decision, and discusses how the court misapplied relevant law in enforcing an arbitration clause against corporations who did not sign the shareholder agreement containing the arbitration clause. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L

**Singer, David** "Teaching Alternative Dispute Resolution to America's School Children" Arbitration Journal December, 1991 V.46 N.4 pp. 33(6) The author discusses the use of alternative dispute resolution to solve conflicts among primary and secondary school students. The article discusses some examples of ADR in schools and its effect on the entire system. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

**Singer, Linda R.** Settling Disputes 1990 This book examines the growth of ADR, the various ADR techniques, and how they have been applied to a wide range of disputes, including family, business, consumer, employment, and public disputes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: FARM/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ECONOMIC ADVANTAGES OF ADR/ FISS

**Singleton, Susan** "A Handbook of Dispute Resolution: ADR in Action" (book review) New Law Journal June 14, 1991 V.141 N.6508 pp. 818(1) This book consists of articles that may provide relevant background to lawyers, psychologists and others involved in dispute resolution. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

**Sinicropi, Anthony V.** "Remedies and Arbitration Decision Making: Responses to Change" Labor Law Journal August, 1991 V.42 N.8 pp. 546-550 The authors examine problems that arbitrators face and possible remedies in response to the fast-changing environment of labor relations.

ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

**Smit, Hans** "Dispute Resolution in Europe: A Comparative Context for the Resolution of Disputes Between Americans and Canadians Canada" United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 281-293 The article discusses the impact that economic integration will have on the resolution of disputes, and examines various European approaches to resolving these disputes. INST NATURE: GOV'T ENTITIES SUBJ MATTER: INT'L COMPARISONS: CROSS-CULTURAL COURT REFORM LEGISLATION

**Smit, Hans** "Fast-Track Arbitration" The American Review of International Arbitration 1991 V.2 N.2 p. 138 The author summarizes the procedural and factual events which preceded the development of fast-track arbitration, and suggests an appropriate framework for international institutions to develop in order to maximize the effectiveness of ICC fast-track treatment. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

**Smit, Hans** "Substance and Procedure in International Arbitration: The Development of A New Legal Order" Tulane Law Review June, 1991 V.65 N.6 pp. 1309-1322 This article discusses developments in international arbitration and suggests ways to promote consistency and predictability in both the process and decisions. ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ FISS/ QUALITY CONTROL

**Smit, Hans** "The New International Arbitration Rules of the American Arbitration Association" American Review of International Arbitration 1991 V.2 N.1 p. 1 The author reviews the AAA's new International Arbitration Rules, effective March 1, 1991, and concludes that they provide a most desirable and flexible regime for arbitrating international controversies. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:



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SELECTION OF ARBITRATOR/ INST NATURE: PRIVATE,  
PROFIT-MAKING/ SUBJ MATTER: INT'L

**Snow, Carlton J.; Pringle, Janine Catherine** "Should Arbitrators Have the Last Word on 'Last Change' Settlement Agreements?" Willamette Law Review June 22, 1991 - Summer V.27 N.3 pp. 513-547 The authors are concerned that many last chance settlement agreements force employees to waive future appeal rights. Because this waiver is inconsistent with most collective bargaining agreements, the authors believe arbitrators should invalidate such provisions. ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ ARB: FINAL OFFER ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

**Sochynsky, Yaroslav; Baird, Mariah** "Tailoring the Arbitration Clause: Accommodating Client Needs in Real Estate and Other Transactions" Golden Gate University Law Review June 22, 1991 - Summer V.21 N.2 pp. 281-305 The authors list recent developments in real estate that necessitate a working knowledge of ADR methods for all real estate practitioners. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: RENTAL HOUSING/ SUBJ MATTER: REGULATORY

**Sochynsky, Yaroslav; Baird, Mariah** "Using Alternative Dispute Resolution in Real Estate Transactions" The Practical Real Estate Lawyer July, 1991 V.7 N.4 pp. 13-30 In this introductory and exploratory article about alternate dispute resolution, the authors point out how it may be applied to real estate transactions. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GOV'T ENTITIES/ 3RD PARTY: SELECTION

**Somary, Karen; Emery, Robert E.** "Emotional Anger and Grief in Divorce Mediation" Mediation Quarterly Spring, 1991 V.8 N.3 pp. 185 By recognizing and understanding the different types of anger and its sources, the authors hope that mediators will be able to help divorcing couples manage their anger and avoid impeding the mediation process. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER:

**FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE  
STUDY/RESEARCH REPORT**

**Sopinka, John** "What Can We Do To Make the Current System of Dispute Resolution Work Better?" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 519-532 The article emphasizes Canada's dissatisfaction with the current methods for adjudicating claims and discusses the various reforms aimed at implementing successful ADR options. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM

**Sornarajah, M.** "The Climate of International Arbitration" Journal of International Arbitration June, 1991 V.8 N.2 pp. 47-86 The author contends that the present state of the law or the protection of state contracts with foreign corporations is in disarray, and that an effort to build a theory of internationalism has been unsuccessful. The author believes that the extreme of the acceptance of the universalization of the Calvo doctrine, which would result in the total elimination of international arbitration is unacceptable. Thus, the author advises that the more liberal tendencies that operate in this area be accepted. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ LEGISLATION

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**Spiller, Amy** "Third Annual ADR Institute - Role of the Attorney in an ADR Proceeding" Corporate Counsel's Quarterly July, 1991 V.7 N.3 pp. 24-44 The article is a report from an ADR seminar sponsored by the Texas Bar Association that describes the specific procedures of the Texas ADR statutes. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE

**Stainato, Linda** "Toward a Negotiated Order: Reflections on the Path to Transforming Society" Negotiation Journal July, 1991 V.7 N.3 p. 265 This article reviews three books on negotiation, settling disputes, and collaboration, by Louise Nievwmeijer, Linda Surger, and Barbara Gray, and identifies changes within the dispute resolution field and needed areas of emphasis, such as specialized training for negotiators. The author finds each book useful for practitioners in the field. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L

**Stallworth, Lamont E.** "Grievance Arbitration: Issues on the Merits in Discipline, Discharge, and Contract Interpretation" (book review) Industrial and Labor Relations Review April, 1991 V.44 N.3 pp. 567(2) Arnold Zack, the author of Grievance Arbitration: Issues on the Merits in Discipline, Discharge, and Contract Interpretation, presents various fact situations from the three perspectives of management, union, and neutral parties on a variety of topics, including argument rights, union activities, wages, seniority, and discipline and discharge. The reviewer assessed the book as a "first class resource" for arbitrators and advocates alike. ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

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**Totterdill, Brian W.** "Does the Construction Industry Need Alternative Dispute Resolution? The Opinion of an Engineer" Construction Law Journal June 22, 1991 - Summer V.7 N.3 pp. 189-199 The author discusses the advantages and disadvantages of ADR in the construction industry from the point of view of a construction professional, and he concludes that ADR is most beneficial when used to assist the parties in making their own decisions, not imposing an arbitrary decision on both parties. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED:



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**Trotter, John K.; Gnaizda, Robert** "Private Judging: Choice, or Threat?" The Los Angeles Daily Journal February 22, 1991 V.104 N.39 p. S1 Two opposing articles, authored by a former California Superior Court judge and a civil rights and public interest attorney, evaluate the alleged merits and criticisms of private judging. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GOV'T/ 3RD PARTY: CONFLICT OF INTEREST

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**Turk, A. Marco** "Spell Out The Details When Drafting Contracts" The Los Angeles Daily Journal March 29, 1991 V.104 N.64 p. 7 The author contends that lawyers should not draft arbitration clauses in contracts that are vague and simple, but rather should draft arbitration clauses that set forth all the ground rules that will apply if a controversy arises. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: PREPARATION/ ARB: CLIENT REP

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**Ulmer, Nicolas C.** "Winning The Opening Stages of An ICC Arbitration" Journal of International Arbitration June, 1991 V.8 N.2 pp. 33-45 The author outlines the advantages of winning international commercial arbitrations through attention to the initial stages of the dispute because of the openness of the procedure. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS

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**Vetter, George** "How to Evaluate a Personal Injury Case - And Settle it Favorably" For the Defense April, 1991 V.33 N.4 pp. 9-17 This article provides specific advice for the defense attorney on how to deal with having an insurance carrier as a client, and how to manage the case to the client's satisfaction. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: AUTHORITY/ SETTLEMENT: PRESSURES TO SETTLE

**Vidmar, Neil; Rice, Jeffrey** "Jury-Determined Settlements and Summary Jury Trials: Observations About Alternative Dispute Resolution in an Adversary Culture" Florida State University Law Review June 22, 1991 - Summer V.19 N.1 pp. 89-103 Vidmar and Rice challenge Professor Menkel-Meadow's view that the adversary legal culture has worked against the goal of alternative dispute resolution. The authors contrast the summary jury trial with jury-determined settlement to point out that the adversary legal culture is compatible with the objectives of ADR. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COURT REFORM/ JUDICIAL PARTICIPATION

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**Vratislav Pechota** "Estonia Establishes A Permanent Arbitration Tribunal" The American Review of Intl. Arbitration 1991 V.2 N.2 p. 122 In furtherance of their break with the Soviet Union, the Parliament of Estonia passed a law establishing a permanent arbitration court, yet patterned the law after the Soviet Unions jurisprudential approach where the government is closely involved in the system. NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ REQUIREMENTS: STATUTORY OR RULES

**Wade, Daniel L.** "International Arbitration" (book review) The Yale Journal of International Law June 22, 1991 - Summer V.16 N.2 pp. 605(1) This book review comments that International Arbitration, by Thomas Gehmke, should provide a good introduction to a novice arbitrator or anyone else interested in better understanding international arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

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The author discusses the role state acts governing international arbitration agreements could play when viewed in conjunction with federal law governing the same. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ LEGISLATION

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**Walklate, Sandra** "Mediation and Criminal Justice: Victims, Offenders, and Community" (book review) **International Journal of the Sociology of the Law** May, 1991 V.19 N.2 pp. 258-264 This article reviews three books on the accountability question in the criminal justice process, one of which discusses the value of mediation where the victim and offender are unknown to each other. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: CRIMINAL/ TYPE OF SOURCE: BOOK REVIEW/ SELECTION OF APPROPRIATE PROCESS

**Wall, Victor D., Jr.; Dewhurst, Marcia L.** "Mediator Gender: Communication Differences in Resolved and Unresolved Mediations" **Mediation Quarterly** Fall, 1991 V.9 N.1 p. 63 The authors' research found that males and females used different types of formulations, which are consistent with the stereotypical expectations of male/female behavior, but had no effect on the resolution of the mediations. The data also showed that males were perceived as more competent than females despite

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the outcome of the mediation. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Walline, Megan J. ; Gould, Larce (Eds.) Dispute Resolution Today - The State of the Art This is a collection of articles selected from the proceedings of the American Arbitration Associations Third Wingspread Conference, encompassing topics concerning training programs, education, design and implementation of ADR programs and developing trends. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL

Walsh, Thomas P. "American and Japanese Legalism: Alternative Viewpoints and Approaches to Dispute Resolution" The Legal Law Library Studies Forum March 22, 1991 - Spring V.15 N.2 pp. 103-125 The author compares American and Japanese concepts of legalism, with particular emphasis on dispute resolution. He points out that Japan's rich cultural tradition predominates over its Western style written law and that Japanese legal interaction emphasizes harmony and obligation rather than the competition and individual rights so important in America. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

Watkins, Keith; Funderburg, J. Noah "Mediation in Alabama" The Alabama Lawyer May, 1991 V.52 N.3 pp. 133(7) This article discusses the advantages and disadvantages of mediation as a method of alternative dispute resolution, especially as applied in the Alabama forum. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OPENING AND SETTING GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

**Waxman, Geraldine Lee; Press, Sharon** "Mediation in Florida" Nova Law Review March 22, 1991 - Spring V.15 N.2-3 pp. 1211-1225 This article discusses the evolution and rules of mediation in Florida. MED: RELATED PROCESSES-GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: HISTORICAL/ FISS

**Weisel, Martha S.** "The Tension Between Statutory Rights and Binding Arbitration" Labor Law Journal November, 1991 V.42 N.11 pp. 766-772 This article discusses the tension between statutory rights and arbitration agreements in employment contracts in light of Gilmer v. Interstate/Johnson Lane. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES

**Weller, Steven** "Settlement Conferences: The Perils and Promise of One-Party Discussions" Judges Journal September, 1991 - Summer V.30 N.3 pp. 2(8) This article explores the judge's practical and ethical considerations involved in using a caucus as a settlement technique in pretrial conferences. MED: PRETRIAL CONF/ MED: CAUCUSING/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ COURT REFORM/ ETHICS: GENERAL/ JUDICIAL PARTICIPATION

**Welsh, Nancy A.** "Court-ordered ADR: What Are The Limits?" Hamline Journal of Public Law and Policy March 22, 1991 - Spring V.12 N.1 pp. 35-50 While the use of ADR is growing in popularity, many parties still would prefer to litigate their cases from the start. Welsh discusses the view of the courts regarding their right to prescribe mandatory non-binding arbitration before a case is litigated. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ REQUIREMENTS: MANDATE TO USE

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International Arbitration June, 1991 V.8 N.2 pp. 105(1) The reviewer writes that the author, the former Secretary-General of the ICSID, has written a most useful commentary which will benefit all those involved with the Uncitral Model Law. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Werner, Jacques "International Dispute Settlement" (book review) Journal of International Arbitration December, 1991 V.8 N.4 pp. 124(1) The author finds that this second edition of the book, originally published in 1984 by J. G. Merrills, is an excellent tool for those engaged in the settlement of international disputes, public or private, as the presentation and analysis of the whole array of the means available is of the highest interest. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Werner, Jacques "International Commercial Arbitration: The Problem of State Contracts" (book review) Journal of International Arbitration June, 1991 V.8 N.2 pp. 103-104 The author finds that Mr. Sornarajah's book shows merit in that it shows the limit of the concepts of the parties' autonomy and the separability doctrine in international arbitration. The author finds it surprising that the book is both an endorsement of arbitration, while at the same time advocating limitations which could paralyze and render the arbitration process inoperable. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Werner, Jacques "International Arbitration: Past and Prospects" (book review) Journal of International Arbitration December, 1991 V.8 N.4 pp. 123-124 The reviewer commends this reproduction of proceedings of a 1988 symposium on international arbitration at the University of Utrecht. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ AGREEMENT ON PROCEDURE/ CONFERENCE PROCEEDINGS

Werner, Jacques "Jurisdiction of Arbitrators in Case of Assignment of an Arbitration Clause: On a Recent Decision by the Swiss Supreme Court" Journal of International Arbitration June, 1991 V.8 N.2 pp. 13-22 The author gives a brief synopsis of a case that looks at Article 190

of the Swiss law on International Arbitration. While the court found that the lower court wrongly assigned the arbitration to another company, the author believes that the decision will strengthen arbitration law and not weaken it. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Wesman, Elizabeth C.** "Evidence in Arbitration" (2nd Ed.) (book review) The International Journal of Conflict Management April, 1991 V.2 N.2 p. 171-173 This book may be used as a reference/textbook to clarify terminology, admissibility, due process, parole evidence and collateral proceedings with respect to evidentiary issues in arbitration. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ TYPE OF SOURCE: BOOK REVIEW/ AGREEMENT ON PROCEDURE/ ORGANIZATION POLICIES AND RULES

**Wheeler, Malcolm E.** "Comparative Aspects of Dispute Resolution in Particular Subject Areas: Product Liability" Canada-United States Law Journal December 22, 1991 - Winter V.17 N.2 pp. 359-362 The author distinguishes between product liability litigation in the U.S. and in Canada and discusses the various ADR services available in the U.S. for resolution of product liability claims. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: OTHER TORTS/ COURT REFORM

**Wheeler, Sally** "Lawyer Involvement in Commercial Disputes" Journal of Law and Society June 22, 1991 - Summer V.18 N.2 pp. 241-253 This study examines the role of attorneys in negotiating sales disputes involving reservation of title clauses. The author attaches significance to the difference between an "uninformal" lawyer - who is inexperienced at commercial litigation - and a "complete" lawyer, who can adapt the legal rules to the facts. Only the latter can intimidate opposing counsel and strike strong bargaining positions. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: COMMERCIAL

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**Wibbenmeyer, Kevin L.** "Privileged Communication Extended to the Corporate Ombudsman-Employee Relationship via Federal Rule of Evidence 501" Journal of Dispute Resolution September 22, 1991 - Fall N.2 pp. 367-379 The author discusses Kientzy v. McDonnell Douglas Corp., which held that F.R.E. 501 recognizes a common law privilege extending to a corporate ombudsman. The author notes that a question still remains as to whether this privilege will be recognized beyond situations involving companies vital to national security. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CORPORATE/ OMBUDSPERSON/ ORGANIZATION POLICIES AND RULES

**Wibbenmeyer, Kevin L.** "Curtailing the Arbitrator's Power: Valid Withholding of Jurisdiction of Judicial Flaw?" Journal of Dispute Resolution March 22, 1991 - Spring, 1991 N.1 pp. 183-192 While the court in Cobler v. Stanley, 217 Cal. App. 3d 518 (1990), vacated the part of an arbitration award for emotional distress on the grounds that such an award exceeds the arbitration agreement, the author suggests that a close analysis of the court's reasoning shows that the actual reason for the vacation was that the court found the arbitrator made a mistake of law. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: OTHER TORTS

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**Wilson, Michael S.** "Punitive Damages in the Arbitration of Securities Churning Cases" Review of Litigation December 22, 1991 - Winter V.11 N.1 pp. 137-164 This Note examines whether the law should permit arbitrators to award punitive damages in securities cases, specifically those involving securities churning. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PRIVATE JUDGING/ SUBJ MATTER: SECURITIES

**Wilt, Allen Jay** "Securities Arbitration Agreements in the Aftermath of Rodriguez" Willamette Law Review June 22, 1991 - Summer V.27 N.3 pp. 693-709 The author explores the development of the law of securities arbitration and contemplates its future in light of the decision in Rodriguez de Quijas v. Shearson/American Express Inc. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ RELATION TO ONGOING LITIGATION

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Witt, John "Effective Dispute Resolution for the International Commercial Lawyer" (book review) International Business Lawyer January, 1991 V.19 N.1 pp. 25(1) The author reviews Effective Dispute Resolution for the International Commercial Lawyer, which is a collection of papers by a number of lawyers from around the world, and presents an academic and practical book drawing on the experiences of attorneys versed in international commercial law. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ REQUIREMENTS: CONTRACTUAL CLAUSES

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**Yanming, Huang** "Mediation in the Settlement of Business Disputes: Two Typical Examples of Cases Settled by Mediation at the CIETAC's Shenzhen Commission" Journal of International Arbitration December, 1991 V.8 N.4 pp. 23-35 The China International Economic and Trade Arbitration Commission (CIETAC) and its Shenzhen Commission have done much to settle disputes among Chinese working people. However, the author believes that the CIETAC Rules of Arbitration have not fulfilled the task of affirming, in the forms of law, the successful experience of conciliation of the past few years. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

**Yanming, Huang** "Some Opinions About 'Arbitration Under Chinese Law'." Journal of International Arbitration March, 1991 V.8 N.1 pp. 51-57 The author finds value in the work, Arbitration Under Chinese Law, by Tang An and Chen Xingyuan, but still believes there are several errors and misconception. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF

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Zmolek, Gerry R. "Art of Negotiation: Strategies and Tactics" Trial August, 1991 V.27 N.8 pp. 22(3) The author offers advice concerning negotiating tactics throughout the adversarial process. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ SELECTION OF APPROPRIATE PROCESS

**Zubrod, Donald** "Punitive and RICO Damages in American Maritime Arbitration" Journal of International Arbitration December, 1991 V.8 N.4 pp. 17-22 The author relates the history of New York maritime arbitration decisions and concludes that punitive and RICO damage awards are rare occurrences. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: MARITIME

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**Zyber, George** "Accounting Arbitration: ADR by the Numbers" Alternatives to the High Cost of Litigation May, 1991 V.9 N.5 p. 72 The author argues for disputants to name an independent, neutral accountant to resolve accounting questions. NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING/ REQUIREMENTS: CONTRACTUAL CLAUSES